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Addendum

EGYPT*

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The combined third and fourth periodic reports of Egypt submitted to the Human Rights Committee*

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Cairo, May 2001

* The statistical information contained in this report is taken from Egypt's previous reports to United Nations treaty bodies and from correspondence with the competent authorities.

The combined third and fourth periodic reports of Egypt submitted to the Human Rights Committee

Egypt has the honour to submit the present report to the esteemed Committee pursuant to the provisions of article 40 of the International Covenant on Civil and Political Rights. In conformity with the distinguished Committee's guidelines and general instructions and the amendments thereto, the report shall consist of three parts. Part I contains general information about the State party, part II a commentary on articles 1 to 27 of the Covenant, and part III Egypt's reply to the Committee's requests for information arising from its consideration of Egypt's second periodic report.

In submitting this report to the distinguished Committee, Egypt reiterates its ongoing willingness to reply to all of the Committee's questions concerning the implementation of the provisions of the Covenant forming the subject of this report. Egypt also wishes the Committee enduring success in its exalted mission on behalf of all mankind.

Introduction

Egypt acceded to the International Covenant on Civil and Political Rights pursuant to Presidential Decree No. 537 of 1981. The Covenant was published in Arabic in the country's Official Gazette and came into effect as of 14 April 1982. Egypt expressed a general reservation to the effect that account should be taken of the need to ensure that the Covenant was not incompatible with the provisions of the Islamic Shariah.

PART I

GENERAL INFORMATION CONCERNING THE IMPLEMENTATION OF THE COVENANT

This part of the report consists of an introduction and five sections, as detailed below:

I. Introduction: General information about the State party, its system of government and political structure

Section 1: Statistical and demographic indicators

Section 2: The general legal framework within which human rights principles and fundamental freedoms are protected in Egypt

Section 3: The legal status of the International Covenant on Civil and Political Rights in Egypt

Section 4: Authorities which guarantee the implementation of human rights instruments and the available means of address

Section 5: Information, dissemination, promotion of awareness and education about human rights instruments and principles

I. INTRODUCTION

Information about the State party, its system of government and political structure

The system of government

1. In conformity with the provisions of the Constitution the country has a democratic presidential system of government comprising the following branches.

The Executive

2. The President of the Republic assumes executive power and is elected to office. The President is nominated by the People's Assembly and confirmed by popular referendum. The presidential term is for six years and is renewable.

3. The Government consists of the Council of Ministers and the Cabinet. The present Government is made up of the Prime Minister, the Deputy Prime Minister and 31 ministers, 2 of whom are women. The Prime Minister, his deputies and his ministers must answer to the People's Assembly, which may withdraw its confidence from them, after an interpolation based on a motion of no confidence proposed by one tenth of the Assembly's members.

The Legislature

4. The Legislature enacts legislation and approves the general policy of the State. It also exercises control over the work of the executive authority. The Legislature consists of the People's Assembly and the Advisory Council.

5. The People's Assembly has a total of 464 members, 10 of whom are appointed by Presidential Decree. The remaining members are elected by direct ballot for a term of five years in each case.

6. The Advisory Council has a total of 264 members, two thirds of whom are elected and the remaining one third appointed by Presidential Decree for a period of six years in each case. The Council is asked to express its views on proposals for the amendment of the Constitution and its supplementary laws, the draft General Development Plan, peace treaties and any other matters which the President may refer to it.

The Judiciary

7. Judicial authority is exercised independently by courts of different types and levels. No interference in judicial affairs is permissible. The judicial authority consists of a number of bodies represented by the ordinary courts, the Council of State, the administrative judiciary, and the Supreme Constitutional Court.

The Press

8. The Press is a popular and autonomous authority which pursues its mission freely and independently. The freedom to publish newspapers is guaranteed to public and private legal persons and political parties. It is forbidden to use administrative methods to censor, threaten, suspend or suppress a newspaper. Journalists have the right to obtain information and news and their work is subject to no authority other than the law.

The political structure

9. Egypt's political structure is based on a system of political pluralism (art. 5 of the Constitution). Political parties are regulated by Act No. 40 of 1977, which stipulates the procedures for the formation of political parties and their right to publish newspapers reflecting their views.

10. Egypt has a total of 16 political parties, established between 1977 and 2000. They publish a total of 17 newspapers between them.

Section 1

Statistical and demographic indicators

Results and indicators taken from the 1996 general census

11. Land area (in thousands of km^2): 997.7.

12. Population: 61.4 million persons (51.2 per cent male and 48.8 per cent female), according to the 1996 census. The total population in the country as at 1 January 2001 stood at 66.552 million persons. This estimate takes account of the natural growth rate and the volume of temporary migration from Egypt (estimated at 1.9 million persons).

13. Population distribution by sex (as at 1 January 2001): 51.18 per cent male and 48.83 per cent female.

14. Annual population growth rate: 2.08 per cent in 1996, as compared with 2.4 per cent in 1986. In 1998 the natural growth rate was 2.099 per cent.

15. Proportion of population under six years of age: 15.1 per cent in 1996, as compared with 2.19 per cent in 1986.

16. Proportion of population between 6 and 10 years of age: 9.2 per cent in 1996, as compared with 9.1 per cent in 1986.

17. Proportion of population between 10 and 15 years of age: 10.7 per cent in 1996.

18. Proportion of population between 15 and 60 years of age: 59.9 per cent in 1996, as compared with 53.8 per cent in 1986.

19. Proportion of population over 60 years of age: 5.1 per cent in 1996, as compared with 6.2 per cent in 1986.

20. Proportion of population living in urban areas: 43 per cent in 1996, as compared with 44 per cent in 1986.

21. Proportion of population living in rural areas: 57 per cent in 1996, as compared with 56 per cent in 1986.

22. Average family size: 4.6 in 1996.

23. Average number of persons per room: 1.2 in 1996.

24. Life expectancy at birth: 67.1 years for males and 71.5 for females (2000 and 2001), as compared with 60.5 years for males and 63.5 for females in 1986.

25. Total fertility rate: 3.4 children per woman of childbearing age (15 to 49 years) during the period 1996 to 1998, as compared with a figure of 4.41 for the period 1986 to 1988.

Characteristics of the population

Educational status

26. Illiteracy rate among persons aged 10 years and over: 38.6 per cent in 1996, as compared with 49.6 per cent in 1986.

27. Proportion of the population holding qualifications lower than university level: 32.8 per cent in 1996, as compared with 27.4 per cent in 1986 (all persons aged 10 years and over).

28. Proportion of the population with university qualifications: 7.3 per cent in 1996, as compared with 4.3 per cent in 1986 (all persons aged between 15 and 60 years).

The workforce

29. Total workforce as a proportion of the population: 35.4 per cent in 1996, as compared with 34.4 per cent in 1986 (persons aged between 15 and 60 years).

30. Unemployment rate (2000): 7.9 per cent out of a total workforce of 18.2 million persons.

Social data

31. Number of married persons: 61.2 per cent of the population in 1996, compared with 64.8 per cent in 1986.

32. Number of never-married persons as a proportion of the population: 27.8 per cent in 1996, as compared with 25.7 per cent in 1986.

33. Number of divorced women and widows as a proportion of the population: 7.1 per cent in 1996, as compared with 8.5 per cent in 1986.

Economic indicators

34. Gross Domestic Product: 278.4 billion Egyptian pounds (LE) for the period 1997/98. Total investments: LE 62 billion for the period 1997/98, as compared with LE 66.3 billion for 1998/99.

35. Growth Rate: 5.5 per cent. Annual rate of growth of per capita Gross National Product: 5.2 per cent.

36. In 1998 per capita GNP rose to LE 4,800, corresponding to US$ 1,410.

37. In 1998 per capita GDP rose to LE 4,470, corresponding to US$ 1,314.

38. The rate of inflation fell from 9.3 per cent in 1995 to 4 per cent in 1998/99.

39. The overall public deficit fell from 24.4 per cent in 1987/88 to 2.6 per cent in 1993/94 and less than 1 per cent in 1998/99.

40. The balance of payments has expressed a surplus since 1989/90. It amounted to US$ 2.8 billion in 1993/94.

41. The debt-servicing burden from current receipts fell to 15 per cent in 1993/94.

42. The unemployment rate fell from 9.3 per cent in 1994/95 to 7.9 per cent in 1999/2000.

Section 2

The general legal framework within which human rights principles are protected in Egypt

43. The Egyptian Constitution stands at the forefront of the legal system, since it is the supreme law which defines the structure of the State and its system of government, the powers of its public authorities, the rights and freedoms of individuals, the fundamental guarantees of those rights and freedoms and the means required for legal redress. Since they represent the basic law, constitutions, including the Egyptian Constitution, are characterized by special guarantees ensuring that there can be no derogation from their provisions, except in accordance with special measures for which the approval of the people, as the holder of sovereignty and source of authority, is required.

44. The Constitution occupies a special place in the hearts of Egyptians, since it was a historic nationalist demand that formed the focal point of the patriotic struggle from the beginning of Egypt's modern era in 1805 until the proclamation of the country's first Constitution of 1882, which was repealed as a result of the British occupation. However, the patriotic struggle continued until the proclamation of the Independence Constitution of 1923, which was followed by successive Constitutions reflecting the political circumstances that the country experienced until the proclamation of its Permanent Constitution of 1971, which is the Constitution currently in force.

45. The present Constitution was proclaimed shortly after Egypt signed the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights (4 August 1967), the International Convention on the Elimination of all Forms of Racial Discrimination, the Slavery Convention, and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

46. Accordingly, the Constitution, being the fundamental legal instrument defining the rights and freedoms of individuals and the guarantees required for their protection, naturally embodied all the principles and standards concerning human rights and freedoms set forth in the preceding international instruments and conventions, particularly the Covenant which is the subject of this report and that is one of two fundamental instruments that laid the groundwork for international recognition of the principles of human rights and fundamental freedoms.

47. It is noteworthy that the present Egyptian Constitution was proclaimed after the holding of a popular referendum on 11 September 1971. On 22 May 1980 the Constitution was amended to establish a second parliamentary body, the Advisory Council, and to create a multiparty system and the Press Authority. These amendments to certain articles of the Constitution were made in response to the political, economic and social changes that had taken place and were intended to keep pace with the new international developments in the vital field of human rights and fundamental freedoms. All the principles of human rights and freedoms embodied in the various chapters and articles of the Egyptian Constitution are described in the second part of this report, which examines in detail the rights and freedoms recognized in the Covenant.

48. From the above, it is evident that, in the Egyptian legal system, the principles of human rights generally enjoy the status of constitutionally established rules. The fact that these principles are embodied in the Egyptian Constitution offers the following important advantages:

(a) They enjoy immutability, stability and inviolability unless the necessary steps are taken to amend the Constitution, which inevitably entails a popular referendum (article 189 of the Constitution);

(b) Being constitutional rules, they rank higher than other legal rules established by the legislative or any other authority, which is obliged to act in conformity therewith and to refrain from any violation thereof;

(c) They are accorded legal protection by the Supreme Constitutional Court, which was established under the terms of the Constitution to rule on the constitutionality of legislation and the decisions of which are binding on all the State authorities;

(d) They enjoy the special guarantee accorded to all the human rights and freedoms recognized in the Egyptian Constitution. According to article 57 of the Constitution, any violation of any of the constitutionally guaranteed rights and freedoms of individuals constitutes an offence in respect of which civil or criminal proceedings are not statute-barred and the State guarantees compensation.

49. The Supreme Constitutional Court has given practical effect to these legal principles in numerous rulings which it has handed down in constitutional disputes pertaining to the human rights and fundamental freedoms specified in the Constitution, thereby exercising its constitutional control over legislation. Through these rulings the Court has established a number of important principles reflecting its vision of human rights principles in the following terms:

(a) Human rights and freedoms cannot be sacrificed unless it is considered necessary for the good of society. Full freedom cannot be separated from the inviolability of human life (Constitutional Appeal No. 49, judicial year 17, session of 15 June 1996);

(b) The concept of the right of litigation specified in article 68 of the Constitution means that the mere act of having recourse to the courts cannot be considered as a sufficient safeguard of the rights emanating from the provisions of the law, but rather it always implies that such recourse shall be accompanied by efforts to remove the impediments to rectification of the circumstances in which the violation of those same rights arose and, in particular, any procedure of an obstructive nature (Constitutional Case No. 34, judicial year 16, session of 15 June 1996);

(c) The guarantee of the right of litigation stipulated in article 68 of the Constitution makes it a requirement that every lawsuit shall be heard by a magistrate, even if the rights in dispute are civil in nature, and that it shall be decided openly and fairly by an independent and impartial court which is established in the manner prescribed by law (Constitutional Case No. 30, judicial year 16, session of 6 April 1996);

(d) Article 40 of the Constitution, prohibits discrimination between citizens in specific circumstances, namely where such discrimination is based on sex, origin, colour, religion or belief. The Constitution refers to those particular forms of discrimination because they are the most commonly encountered, but this does not imply that it applies exclusively to them. Were it otherwise, one could infer that other forms of discrimination are legitimate, which would be incompatible with the principle of equality guaranteed under the Constitution (Constitutional Case No. 17, judicial year 14, session of 14 January 1995, published in the Official Gazette No. 6 of 1995 on 9 February 1995);

(e) If the Egyptian Constitution mentions specific forms of discrimination as being prohibited this is not limitative but is only because those forms are most common in daily life. If it were otherwise, it would mean that other forms of discrimination between citizens would have

"constitutional approval" and that would contravene the principle of equality enshrined in the Constitution. The Court illustrated the point by referring, in its ruling, to the existence of forms of discrimination which, although they are not mentioned in article 40 of the Constitution, are no less serious. They include, for example, discrimination between citizens in regard to the rights they enjoy and the freedoms they exercise on grounds of their place of birth, social status, class, political inclinations, ethnic origins, tribal affiliation, attitude towards public authority, aversion to public organizations, pursuit of particular practices or other forms of discrimination;

(f) While it is difficult to enumerate all of the forms of discrimination which the Constitution eschews, the term refers to any form of distinction, restriction, preference or exclusion which arbitrarily impairs the rights and freedoms guaranteed under the Constitution and the law by disregarding, obstructing or diluting those rights and freedoms in such a manner as to impede their exercise on an equal footing by all those legally entitled to do so, particularly in the political, social, economic, cultural and other fields of public life (Constitutional Case No. 39, judicial year 15, session of 4 February 1995, published in the Official Gazette No. 9 of 6 March 1995);

(g) The Supreme Constitutional Court has also delivered its opinion on the extent of the Legislature's discretionary power over the regulation of public rights and freedoms. The Court has determined that the legislature may not derogate from a constitutionally protected right by omission or curtailment (ruling handed down in Constitutional Case No. 16, judicial year 15, session of 14 January 1995);

(h) The Supreme Constitutional Court has also explained that, with regard to citizens' rights and fundamental freedoms, the substance of the legal rule that prevails in, and is observed by a State committed to the rule of law is determined in the light of the standards which democratic States set in their societies. Consequently, no State which is committed to the rule of law may reduce its protection of the rights and freedoms of its citizens below the minimum of the general expectations in democratic States, nor may it impose on their enjoyment or exercise of such rights and freedoms restrictions, the essence or scope of which are incompatible with those applied in democratic systems; in fact, the State's subjection to the law is defined in the light of the democratic concept that its legislation should not infringe rights the recognition of which in democratic States is a prerequisite for the establishment of a State governed by the rule of law and also a fundamental guarantee of the full protection of human rights and personal dignity (ruling handed down in Constitutional Case No. 22, judicial year 8, session of 4 January 1992).

50. These principles indicate that, in discharging its responsibilities for monitoring the constitutionality of legislation, the Supreme Constitutional court uses the provisions of international instruments and the standards applied in democratic States as regards the protection of rights and freedoms as a decisive criterion in the formulation of its opinions on these matters. This reflects its overarching view of the universality of these rights whereof every person may, in any place and at any time apply for their protection.

Section 3

The legal status of the International Covenant on Civil and Political Rights in Egypt

51. With regard to the legal status of human rights instruments in general, and the Covenant which is the subject of this report in particular, international treaties are governed by the rules set forth in article 125 of the Constitution of 1964, as replaced by article 151 of the Permanent Constitution of 1971. Under the terms of the latter article, following the completion of the requisite constitutional procedures, treaties are deemed to constitute part of the country's legislation. Paragraph 1 of the article stipulates: "The President of the Republic shall be empowered to conclude international treaties and transmit them, together with an appropriate statement, to the People's Assembly Such treaties shall acquire the force of law after their conclusion, ratification and publication in accordance with the requisite procedures."

52. Accordingly, following their ratification and publication, all international instruments concerned with human rights and freedoms, including the International Covenant on Civil and Political Rights, are regarded as being equivalent to laws enacted by the legislative authority. Their provisions are equivalent to those of applicable Egyptian law and may be invoked before all legislative, executive and judicial authorities of the State.

53. By virtue of the legal status accorded to human rights instruments in Egypt, the principles of human rights and freedoms embodied in international instruments, including the Covenant, enjoy two important advantages, as reviewed below.

The protection prescribed by the constitutional rule

54. As already indicated, the principles of human rights and fundamental freedoms, having been incorporated into the provisions of the Constitution, enjoy the protection prescribed by the constitutional rule that any legal provision in force at the time of the proclamation of the Constitution which violates or contravenes these principles is deemed unconstitutional. This equally applies to any law that may be promulgated by the legislative authority after the Constitution enters into force. Accordingly, any interested party may, apply to the Supreme Constitutional Court at any time, in accordance with the prescribed procedure in order to obtain a ruling declaring such provisions or laws to be unconstitutional. The rulings of the Constitutional Court are final, are binding on all authorities of the State and are published in the country's Official Gazette.

The protection accorded to legal rules

55. Since international instruments, including the Covenant forming the subject of this report, are regarded as part of the country's legislation, all of their provisions are directly and immediately applicable and enforceable before all State authorities, which are bound to comply with their provisions and the rules stipulated therein. As such, any person who is injured by their non-application has the right to seek recourse directly from the competent court in accordance with the nature of the contravention and the procedure prescribed for the enforcement of his rights.

Criminal protection

56. All of the rights and freedoms set forth under the Constitution, including the rights laid down in the Covenant, enjoy the criminal protection prescribed under article 57 of the Constitution, which stipulates that any violation of any of the said rights and freedoms shall be deemed an offence in respect of which criminal or civil proceedings are not statute-barred and the State guarantees compensation.

57. From the above, it is evident that the Covenant is supported by constitutional texts that endow the rights and freedoms which they protect with the status of constitutionally established rules enjoying a higher rank than legally established rules and that from the time of its entry into force it is deemed a law of Egypt, the provisions of which may be invoked by any interested party before all the State authorities.

58. In addition, in accordance with the ruling established by the Supreme Constitutional Court to which reference was made in part II above, the national legislative authority must regulate these rights in the light of the standards which democratic States set in their own societies. This means that international human rights instruments are accorded a special status in the legislative hierarchy in Egypt, as can be seen in the rulings handed down by numerous courts in connection with the provisions of international human rights instruments, including those delivered by the Supreme Constitutional Court, which take international human rights instruments as their yardstick when reviewing and interpreting the rights forming the subject of constitutional disputes.

Section 4

The guarantor authorities and mechanisms for the effective implementation of human rights instruments and available means of redress

59. This section provides information about the authorities and mechanisms that guarantee the effective implementation of human rights instruments and the available means of redress, as follows.

The judicial authority

60. From the above, it is evident that, in accordance with the provisions of the Constitution, the constitutional principles laid down by the Supreme Constitutional Court and the legal rules on which the Egyptian legal system is based, both the legislative and executive authorities, in the discharge of their tasks and the exercise of their respective functions, are bound by and must ensure compliance with the constitutional and legal principles concerning human rights and freedoms. The legislative authority, in the enactment of legislation, is bound by the constitutional rules concerning human rights and fundamental freedoms. The executive authority is bound by the same constitutional and legal rules governing human rights and freedoms in the promulgation of ordinances, administrative decisions and executive measures, whether such decisions be of general or particular application. The independent judicial

authority, acting through its various bodies, makes every means of redress available to all in a manner consistent with the type of dispute, the parties thereto, the rights claimed or the violations committed.

61. Under the terms of the Egyptian Constitution the press is regarded as a popular and independent authority which guarantees and protects all of the principles of human rights. In its chapter II, section 7 the Constitution stipulates that the press is a popular, independent authority which pursues its mission freely and independently in the service of society and using every means of expression. The press interprets public opinion in the context of the fundamental values of society, the protection of public freedoms, rights and obligations, and respect for the inviolability of the private life of citizens as stipulated in the Constitution and defined by law. The Constitution also lays down the principle of the freedom of the press and the right of journalists to obtain information and to pursue their activities subject to no authority other than the law. On the basis of its functions, as defined under the Constitution, the press acts as, a monitoring authority which ensures the protection of human rights and fundamental freedoms in the framework of its competencies and of constitutional guarantees of the freedom and independence of the press, its right to obtain information and to enjoy legal protection so that journalists may exercise their profession subject to no authority other than the law. By law and under the terms of the Constitution, the press authority is bound to respect the rights and fundamental freedoms of citizens, embodied in the Constitution and the law. These principles are also reaffirmed in the Press Act.

62. The judicial bodies responsible for guaranteeing the public rights and freedoms of all and which constitute the available means of redress for individuals in the Egyptian legal system with regard to any violation of these rights and freedoms whether against individuals, bodies or State authorities, consist in the various branches of the judicial authority: the Supreme Constitutional Council, the civil and criminal courts and the Council of State (the administrative courts).

The Supreme Constitutional Court

63. The Supreme Constitutional Court is the judicial body competent to rule on the constitutionality of laws and regulations and to interpret legislative texts. Having exclusive competence to rule on these matters, it is therefore a specific type of specialized court enjoying independent status.

64. This Court was established under the terms of the 1971 Permanent Constitution (chap. V, sect. 5, arts. 174-178) to replace the Supreme Court which had been established by Act No. 81 of 1969 but abolished by Act No. 48 of 1979, concerning the Supreme Constitutional Court. This Court is an independent and autonomous judicial body based at Cairo. Its members cannot be dismissed. Its rulings on constitutional matters and interpretive decisions are published in the Official Gazette. Such rulings are binding on all the State authorities and, once they have been handed down and published in the Official Gazette at the legally specified time, any text that is declared therein to be unconstitutional is automatically abrogated and becomes inapplicable on the day following the publication of the ruling. If the text that is declared unconstitutional has a bearing on criminal procedure, any convictions that have been handed down on the basis thereof are deemed to be null and void.

65. Under the terms of the Act, petitions for specification of the body responsible for enforcement or for the settlement of disputes concerning implementation are exempted from fees. A fixed fee of LE 25 (corresponding to approximately US$ 7) is payable in respect of constitutional actions in order to facilitate the process of recourse to the Constitutional Court and prevent judicial fees from becoming a burden or an impediment that might deter individuals from exercising their right to have recourse to the Court.

66. The Supreme Constitutional Court has handed down numerous rulings concerning human rights and fundamental freedoms in general and has declared a number of legislative texts to be unconstitutional on the ground that, in the Court's opinion, they violated, contradicted or restricted those rights and freedoms.

67. Reference was made in section 2 of this part of the report to certain important constitutional principles which have been established by the Supreme Constitutional Court. Part II hereof will outline in detail some of the rulings which the Constitutional Court has handed down in regard to human rights and fundamental freedoms.

The judicial authority

68. Reference is made to the judicial authority in chapter V, section 4, of the Constitution, articles 165-173 of which stipulate that the judiciary shall be independent, that judges shall be independent and subject to no authority other than the law, that no interference in their work shall be permitted and that they shall not be liable to dismissal.

69. Article 172 of the Constitution stipulates that the Council of State shall be an independent judicial body competent to adjudicate in administrative disputes and disciplinary actions.

70. From the above, it can be seen that the judicial authority in Egypt is divided into the various levels of civil and criminal courts, administrative courts and the Council of State, each of which will be considered separately.

The civil and criminal courts

71. Judicial affairs are regulated under the Judicial Authority Act No. 46 of 1972. The civil and criminal divisions of the courts are competent to adjudicate in all types of civil disputes and also in criminal cases involving legally designated offences. They adjudicate therein in accordance with the law, within the framework of the disputes brought before them, in the light of the constitutional principles in force and in a manner consistent with the rules and procedures laid down in the Code of Civil Procedure, as applied by the civil courts, or the Code of Criminal Procedure, as applied by the criminal courts. Each of these Codes regulates the levels and types of courts, the extent of their jurisdiction, the stages of appeal against their judgements, means of judicial remedy, the procedures for the hearing of proceedings and the safeguards that must be provided for plaintiffs and defendants. By law any person who has suffered detriment as a result of an offence has the right to bring a civil action for damages before the criminal court hearing the proceedings in connection with the legally designated offence in question. These offences obviously include violations of the public rights and freedoms of individuals. In addition, the

law allows, in specific circumstances, that in addition to the Department of Public Prosecutions undertaking the examination and prosecution of a case before the courts, the victim who has suffered damage may himself initiate criminal proceedings directly before a court and seek the infliction of the legally established penalty on the accused person as well as civil compensation for the damage which he has suffered.

The administrative courts and the Council of State

72. During the exercise of its powers and functions and the consequent issue of decrees or ordinances affecting the interests of individuals or groups, regardless of whether they relate to measures that it is obliged to take or services that it provides for citizens, the executive authority is obviously bound by all the constitutional principles and legal rules in force in the country and, within the limits of its jurisdiction, act in the public interest and must endeavour to take administrative decisions that promote the welfare of citizens on the basis of purely objective criteria, free from any form of discrimination, and in accordance with the legal principles in force.

73. The Council of State and the administrative courts are a means of judicial remedy to which anyone may resort in order to contest decisions taken by the executive authority, regardless of whether such decisions are positive or negative (in the sense of a failure to take a decision or the requisite decision). The administrative courts can be petitioned to annul decisions which infringe legal or jurisdictional limits, which are defective in form or which are vitiated by faulty application or interpretation or by an abuse of authority. Compensation can also be claimed in this respect.

74. The Council of State is an independent judicial body (article 127 of the Constitution). The Council of State Act No. 47 of 1972 defines the competence of the Council's courts to adjudicate in appeals against final decisions and applications for the annulment of administrative decisions and for payment of compensation in respect thereof for the above-mentioned reasons. A refusal to take a decision is, in itself, regarded as an administrative decision. These courts are also competent to hear appeals against disciplinary decisions. In addition the Act regulates the channels, procedures and stages of appeal against judgements. The Act regards abrogating judgements as binding on all and a refusal to implement them is deemed to constitute an offence punishable in accordance with the Egyptian Penal Code (art. 123).

75. Our above review of the legal status of humans instruments in Egypt and of the means of redress available under the country's judicial system clearly shows that any interested party can apply to either branch of the judicial authority (the ordinary courts or the Council of State), depending on the nature and type of the dispute and the rights arising therefrom or claimed therein, in order to demand his rights or uphold his claims before the ordinary courts, by prosecuting the accused party and claiming compensation in respect of the damage suffered, if the violation of his rights or freedoms constituted a legally designated offence, or by solely claiming compensation in other cases, or before the administrative courts by demanding the annulment of defective administrative decisions and payment of appropriate compensation in respect thereof.

76. In either case, the petitioner can demand the direct enforcement of the provisions of the instrument or other human rights instruments in their capacity as part of the Egyptian legislation in force in accordance with the provisions of the Constitution. If, during the various stages of the proceedings, legislative texts or regulations prevent him from achieving his legitimate aims and purposes in accordance with the rights and freedoms recognized in those instruments, he can contest the constitutionality of those legal texts before the Supreme Constitutional Court on the ground that they violate the constitutional principles on which those rights and freedoms are based. In this case, the court hearing the proceedings must suspend the hearing until a decision has been taken on the constitutionality of the contested legal text. The court resumes its hearing of the proceedings after a ruling thereon has been handed down by the Supreme Constitutional Court. The lower court must abide by the decision reached by the Constitutional Court in its ruling which, as stipulated in the Constitution, is binding on all the State authorities.

77. In the light of the above, the provisions of the Covenant which is the subject of this report are regarded as equivalent to the law, so that any party who has suffered injury as a result of an offence can apply to the courts in the circumstances outlined here above for the infliction of a penalty against the offending party and the payment of compensation. In other circumstances, the Egyptian legal system provides that a person who has suffered damage may have recourse to the civil or administrative courts, depending on the nature of the dispute and the status of the parties involved, and may appeal to the Supreme Constitutional Court, in the manner prescribed by law, to contest the constitutionality of laws enacted in violation of the rights and freedoms recognized in the Covenant.

78. Part II of this report contains a number of actual examples of rulings handed down by the Supreme Constitutional Court in respect of the rights and freedoms recognized in the Covenant.

79. In this connection, the following points should be borne in mind:

(a) Article 40 of the Constitution, which embodies the principle of equality before the law and non-discrimination on grounds of sex, origin, language, religion or belief or any other ground established in accordance with a ruling of the Supreme Constitutional Court in this regard, applies to all the above-mentioned means of redress in the same way as it applies to all the rights and freedoms provided for in the Covenants on human rights and the Constitution;

(b) In one of its rulings, the Constitutional Court stipulated that the right of legal redress in the country is guaranteed to all citizens and foreigners in accordance with the same safeguards needed for the administration of justice. It stipulated that, under the terms of article 68 of the Constitution, the State had an obligation to ensure that every citizen or foreigner had easy access to its courts, as well as the necessary protection of their recognized rights, with due regard for the fundamental safeguard needed for the effective administration of justice in accordance with the standards set in the developed countries.

80. The rulings handed down by the Supreme Constitutional Court in respect of the rights and freedoms recognized in the Covenant, which were already mentioned in section 2 of this report shall be discussed in detail in part II hereunder, underscore the following points:

(a) The State has been successful in the endeavours which it has made to promote awareness among citizens of the rights and freedoms guaranteed under the Constitution and the law and, consequently, in encouraging them to uphold and refrain from neglecting these rights and freedoms and to claim compensation for any damage suffered in respect thereof. Over time, the standards set by these rights and freedoms automatically take root and become an integral part of everyday life;

(b) The State abides by the principle of the sovereignty of the law and of the enforcement of judicial rulings which protect the rights and freedom recognized in the Constitution or are interpreted as being part thereof in accordance with the international standards prevailing in democratic countries.

National government mechanisms responsible for human rights

81. Campaigns promoting awareness of international human rights instruments and national efforts to make information and knowledge about these instruments accessible to all categories and groups of citizens have been instrumental in strengthening awareness of human rights, encouraging adherence thereto and creating a broad base of knowledge about such matters. The judicial rulings of the Supreme Constitutional Court, which were described above have also helped to consolidate and strengthen those rights.

82. In addition, the following national mechanisms have been put in place to monitor and implement international human rights instruments:

(a) The Supreme Council for Motherhood and Childhood;

(b) The National Council for Women;

(c) The Department for Human Rights Affairs of the Ministry of Foreign Affairs;

(d) The Office for Human Rights Affairs of the Department of Public Prosecutions;

(e) The General Department for Human Rights Affairs attached to the Office of the Minister of Justice.

83. A study is currently being conducted on the establishment of a national council for human rights as a special national mechanism in this domain. The council would operate in the light of the Paris Principles and in the framework of the relevant United Nations resolutions.

84. All of the above bodies function as monitoring mechanisms which ensure the effective implementation of all principles of human rights.

Civil society mechanisms

85. The mechanisms and legal entities of civil society, which encompass the national press, party organs, private associations, non-governmental organizations, trade unions, professional associations and political parties, perform their function of guaranteeing and monitoring the effective implementation of human rights according to their respective areas of concern and constituencies and the types of activities which they pursue. The endeavours of legal entities have played a major role in raising awareness about, and ensuring the effective implementation of human rights instruments, and defending the rights and freedoms enshrined therein while serving the interests of their members.

Section 5

Information, dissemination, awareness raising and education about principles of human rights in Egypt

Information

86. As already mentioned, on 15 April 1982, following completion of the procedures for its ratification, the International Covenant on Civil and Political Rights was published in the Official Gazette, which appears in Arabic and contains all the country's legislation and presidential decrees, as well as international conventions. Publication in the Official Gazette is an important means of ensuring that everyone is informed about the legislation that has been enacted. It also determines the date of its entry into force in the country.

87. The Official Gazette is published in consecutive and special issues and can be purchased by anyone at establishments specializing in the sale of government publications. It can also be posted to subscribers. It is sold at nominal prices, below production cost, in order to facilitate public access thereto.

88. The Official Gazette is considered an important periodical which public and private libraries are eager to acquire and include among their reference works. It is also in great demand by all persons working in the legal field since, in accordance with article 188 of the Constitution, all legislation must be published in the Official Gazette within two weeks from the date of its promulgation and enters into force one month following the date of its publication therein, unless otherwise stipulated. Legal provisions can be applied only with effect from the date of their entry into force although, in non-criminal matters, a stipulation to the contrary may be made by a majority vote among the members of the People's Assembly (article 187 of the Constitution).

89. While publication in the Official Gazette is a means to draw public attention to legislation and determines both the date of its entry into force, its scope and its field of application, which are matters of concern primarily to jurists, international human rights instruments are also of great interest to all sections of the Egyptian people. Accordingly, as a token of its commitment to the provisions of those instruments and international resolutions adopted in connection therewith, the Government is eager to make them widely known and understood by seeking to ensure that the application of their lofty humanitarian values

concerning human rights and freedoms is closely linked to the social education process, since this is the only way to shape the behavioural patterns of future generations and guarantee that they are imbued with those values, aware of the benefits derived from the enjoyment of these rights and eager to safeguard their fruits.

90. Hence, in Egypt, the international human rights instruments, which include the Covenant under consideration in this report since it is one of the founding Covenants in respect of the principles of human rights and freedoms and the concepts, purposes and values associated therewith, are now basic subjects that are taught at both stages of basic education (the elementary and preparatory stages) and also at the undergraduate and graduate levels in many university faculties, particularly faculties of law, as well as police academies, training centres and specialized national research centres, because their students will be firmly committed to their aims, to the implementation of their provisions and to the effective defence of the rights of others. They will undoubtedly also be capable of extending the scope of application of those provisions in the functions that they will be assuming by virtue of their qualifications. Moreover, Egypt has endeavoured to develop the educational curricula at all academic levels in order to make the lofty principles, purposes and provisions of those instruments more widely known.

91. Needless to say, the endeavours that the State is making to eradicate adult illiteracy, as a constitutionally prescribed national duty, make an important and effective contribution to the promotion of awareness of the principles and instruments of human rights and freedoms by enabling newly illiterate persons to familiarize themselves with and fully enjoy those rights and freedoms. This is undoubtedly the best way to ensure a steady increase in the number of persons capable of understanding their rights and the ways to defend and safeguard them.

92. In addition, the national press, party organs, political parties, trade unions, professional associations and non-governmental organizations, in their capacity as legal entities with branches in all parts of the country, play a leading role in familiarizing people with these rights and freedoms by using methods appropriate to their circumstances and aims, the culture of their members and the occupation, profession or place which they represent. These governmental and non-governmental endeavours to eradicate adult illiteracy and provide information and cultural services in all parts of the country also indirectly play an important role in promoting greater awareness of the international instruments concerning human rights and freedoms among all communities and sections of society.

93. Detailed reference will be made hereunder to the endeavours, measures and programmes undertaken by Egypt in the context of education, training and awareness raising.

Education, training and awareness raising

94. Egypt understands that the promotion of awareness of rights is a necessary condition for the strengthening of these rights at the international and national levels. The World Conference on Human Rights, held at Vienna in 1993, stressed the importance of human rights training and education and of educating public opinion about human rights as a fundamental and important

means of developing and strengthening stable and cohesive relations between societies and promoting mutual understanding, tolerance and peace. This was followed by the declaration of the United Nations Decade for Human Rights Education (1995-2004).

95. In its eagerness to instil and promote awareness of the concepts and principles of human rights and to cultivate behaviours and attitudes that demonstrate respect for the dignity, rights and freedoms of the individual in society so that these behaviours and attitudes become the prevailing practice in the everyday life of every person, Egypt has strived to provide education and information about these principles using the following three key approaches:

(a) Incorporating human rights principles into educational curricula at the basic and university stages of education;

(b) Training persons who operate in these particular domains according to their respective areas of expertise;

(c) Promoting greater awareness of human rights by means of public discussions, conferences and through the media.

Education

Development of educational curricula for the basic and secondary stages of education

96. Egypt is convinced that the principles of human rights recognized in international instruments and the lofty values and noble aims embodied therein constitute the basic building blocks for the development of broad-based educational curricula encompassing the behaviours, attitudes, ideas, values and habits which children and young persons ought to be taught, insofar as social progress relies on the attention given to the rising generation. Accordingly, Egypt has taken care to incorporate human rights concepts and principles into educational curricula at the basic stage of education in conformity with the aims of the United Nations Decade for Human Rights Education.

97. It has also organized numerous conferences on the development of educational curricula with a view to including the principles of human rights therein. The holding of the 1993 National Conference on the development of elementary school curricula was followed by the 1994 Conference on the development of preparatory school curricula. National conferences are also being planned to review secondary school curricula.

98. The outcomes of such conferences are used to revamp and improve basic education curricula (for the elementary and preparatory stages) in order to promote human rights principles by focusing on everyday subjects and issues and by giving students the chance to understand the scientific, social, economic, technological and political changes that are happening around them. Among the key issues which have been effectively included and incorporated into educational curricula throughout each educational stage are: human rights; the rights of the child; the

elimination of discrimination against women; preventive and therapeutic health care; reproductive health; the relationship between population growth and development; religious tolerance and education for peace; national unity; preservation of the environment; globalization and transnational economic integration; and awareness of the law and of the rights and duties of the citizen.

99. This process involved firstly a review of the international, regional and Arab instruments in which these rights are recognized and then the convening of meetings with human rights experts in order to analyse the basic concepts underpinning these rights and their varying levels of application, from the most superficial to the most complex, in a manner appropriate to the age of the children in each grade. The concepts identified in the analysis were then transported into a sequential matrix in order to make it easier to select the subjects that ought to be taught at each stage and each grade.

100. The concepts embodied in human rights and freedoms were extrapolated from the analysis of human rights issues, as follows:

- The right to a life of dignity
- The right to education and ongoing education
- The right to equality and non-discrimination
- The right to adequate housing
- The right to personal inviolability
- The rights of civilians in time of war
- The rights of children, women and older persons in time of war
- The right to practise religious beliefs
- The right to enjoy safety and security
- The right to a safe maternity
- The right to practise sports
- The right to differ
- The right to form a family
- The right to consideration and respect
- The right to universal health care
- The right to wholesome nutrition
- The right to freedom of movement
- The right to participate in political and social life
- The rights of families in time of war
- The right to work
- The right to hold meetings
- The right to leisure
- The right to choose and to take decisions
- The right to own property

101. Educational curricula have been designed up to the third preparatory grade, thereby completing the work for the basic stage of education. Efforts are being made to develop the curricula up to the end of the secondary stage of education. Preparations are under way for a conference on the development of secondary school curricula to be held at the earliest opportunity, and the requisite studies and preparatory research have begun.

102. With regard to the incorporation of human rights issues into secondary school curricula, it is likely that they will continue to be taught according to the method cited above and that appropriate concepts will be selected for this particular age group with a view to deepening its understanding, including through the use of direct and distance learning.

103. In addition to the integration method, it is recommended that secondary school curricula should be designed on the basis of a core curriculum, consisting of a series of basic academic subjects which every student must study. Students could also elect options from other curricular, depending on their interests and wishes. Within the core curriculum one could create separate curricula focusing on human rights, civil education, or life skills in general. It would also be possible to design a curriculum based on the suggestions of the students that addresses important issues in a manner appropriate to the needs of the age group.

104. For this, it would be necessary to offer teachers continuous training and retraining in order to help them discuss these concepts in the secondary school in the same way as has happened in elementary and preparatory schools.

105. In this domain Egypt has instituted cooperation with numerous international agencies particularly the United Nations Children's Fund (UNICEF) and the United Nations Population Fund (UNFPA) which have the specialized knowledge and technical expertise to be able to help it achieve this goal. In the context of the educational process, Egypt, in coordination with the United Nations Educational, Scientific and Cultural Organization (UNESCO), also holds drawing and creative writing competitions that focus on the themes of peace, tolerance, respect for the opinions of others and the promotion of a culture of tolerance and peace. Egypt devotes attention to promoting the right of the human person to live in a clean environment, and has established the Green Pillar projects in schools for that purpose, encouraging students to read about the environment with a view to cultivating their general awareness.

Development of university syllabuses on human rights education

106. Over the past few years there has been a flurry of activity in many Egyptian universities in the area of human rights education. Activities have involved the design of courses which incorporate human rights into the academic syllabus and offering students and faculty members the opportunity to attend training courses in Egypt and abroad on this theme.

107. Many university faculties have instituted cooperation with international institutions and non-governmental organizations working in the field of human rights law in order to develop human rights education and to organize seminars and workshops to discuss ways and means of incorporating the subject matter into different academic curricula. The result of these consultations are outlined below.

108. Human rights are taught in university faculties either under the umbrella of the social sciences and the study of public law, particularly international law concerning human rights and international organizations, or in the context of political science, particularly political and social theory, philosophy, sociology and history. New branches of study have been introduced into the academic curricula of faculties of law and political science at the undergraduate and postgraduate levels and efforts are being made to encourage students to make them the subject of their doctoral studies and also to encourage universities to forge cultural and scientific links on behalf of their students and organize lectures and seminars on human rights.

109. Curricula, syllabuses and teaching methods have been developed both formally and informally in university teaching, underscoring the considerable importance which the State consistently attaches to these subjects. For the first time in 1990 the Faculty of Law introduced a human rights curriculum as an independent course of study for fourth-year students and instituted a postgraduate diploma for the subject. Human rights are currently being taught as a separate subject to undergraduates and postgraduate students in numerous faculties, including faculties of law, economics, political science and business administration, as well as police academies. The courses cover subjects such as the protection of human rights under international law; human rights and the Islamic Shariah; legal protection of human rights; different kinds of human rights and human rights philosophy. Since many postgraduate students are members of the legal profession who work as prosecuting attorneys and police officers, or are schoolteachers and university lecturers, it is important that human rights should be taught at this level so that they may acquire the information and legal, political and scientific expertise which they need in their respective areas of work.

110. Pursuant to a recommendation of the Egyptian Parliament, efforts have been made to incorporate the provisions of the Convention on the Rights of the Child and other human rights instruments into the academic curricula at faculties of law, arts, social work, nursery school teaching and education in a manner that reflects the importance of disseminating information about these rights. This has been done at different levels, depending on the type of curriculum followed by the faculties concerned.

111. Recognizing the importance of education and scientific research in establishing a firm foundation for respect for human rights and the creation of a young generation committed to those rights, Egyptian universities take care to develop their activities in such a way as to promote the dissemination of human rights principles and values through research centres and courses of study devoted to human rights. The centres conduct research and produce studies, books and publications on human rights and also organize courses and education, training and information programmes designed to familiarize participants with the rights and fundamental freedoms of the human person and to develop a general culture conducive to the protection of human rights principles.

Training

112. Egypt ensures that training is given to staff employed by the criminal justice department, according to their areas of competence. The training consists of intensive training courses run at home and abroad in cooperation with the relevant ministries and technical agencies concerned with human rights affairs. All the way through their studies up to the postgraduate level the students at police academies also follow courses of study designed by faculties of law and covering human rights topics. Training programmes offer information about and raise awareness of all international human rights instruments and the means for protecting these rights in the workplace. In that connection, Egypt has signed a cooperation agreement with the UNFPA which is considered the first of its kind in the region. It consists of a pilot project for the promotion of human rights and provides funding for a seminar to mark the fiftieth anniversary of the Universal Declaration of Human Rights and two training sessions for members of the police and the Department of Public Prosecutions on the administration of justice. The first cycle was held in July 2000 and preparations are under way for further sessions in 2001.

113. Egypt participates in many such seminars which are organized by the United Nations and the specialized international agencies.

114. Under the auspices of the Ministry of the Interior training programmes on respect for the principles of human rights have been set up for senior police officers and the directors of police academies and run by the Centre for Leaders. Training courses and seminars have been organized for leaders to enhance their awareness and understanding of human rights issues and human freedoms. The Supreme Police Council has also decided to make the subject of human rights a core subject for officers studying at the postgraduate level, while police academies pursue cooperation with various international organizations with a view to strengthening their human rights programmes, encouraging students to undertake research in this area and increasing the number of publications dealing with human rights that are held by their libraries so as to expand the information resources available to researchers in this domain. The academies have run human rights training courses in cooperation with the United Nations to help trainees acquire international expertise and to highlight the importance of abiding by the international principles and standards of human rights.

115. In addition, a department of criminal justice and human rights has been set up at the Centre for Police Research, pursuing scientific activities concerned with various issues and fields of application of criminal law as well as research into human rights and fundamental freedoms.

Awareness raising

116. According to UNESCO, the first step in combating violations of human rights is to make man aware of what these rights entail. Awareness is raised firstly by cultivating patterns of behaviour in which citizens conduct their daily lives in a manner consistent with the spirit of human rights, and secondly, by encouraging individuals to take part in the promotion of human rights.

117. Egypt is firmly persuaded that there can be no respect for human rights unless the designers of educational programmes, the members of the media and others disseminate a culture of human rights from childhood all the way through every stage of education up to the highest levels in the various fields concerned.

118. In this connection non-governmental organizations and government and non-governmental research institutions also help to raise awareness of human rights issues by promoting research into and the dissemination of information about this topic as well as by organizing conferences and meetings to debate these issues, promote awareness thereof and encourage dialogue.

119. At the non-governmental level, the national press and party newspapers as well as political parties themselves and non-governmental institutions play an important role in promoting awareness of human rights by organizing training, workshops and seminars on the dissemination of human rights principles which are followed by the national media and party newspapers. They also circulate research and reference works in which these principles are discussed. Such endeavours are targeted at various groups, chiefly students and researchers, and are designed to enhance their research skills and strengthen their intellectual commitment to

human rights principles, also in view of the important role they will play in the future in disseminating these principles. Persons working in the information sector (the press and the film industry) are also targeted, because of the important role which their activities play in enhancing public awareness of human rights.

120. Training sessions and workshops cover such topics as the historical development and philosophical and moral foundations of the principles of human rights, the raising of awareness of such principles and of fundamental freedoms and ways to ensure their implementation. Other topics discussed include the universality of human rights, the specificity of Arab culture, the role of civil society in the promotion of human rights and the principles of international humanitarian law.

121. Several conferences and seminars on human rights have been held recently to discuss the following issues:

(a) "The Effects of Globalization on the Realization of Human Rights", a workshop organized by the Arab Organization for Human Rights (a non-governmental organization);

(b) A seminar on the right to development, held at Yaoundé, Cameroon (with the participation of the Ministry of Foreign Affairs);

(c) A seminar on human rights and the media in the Arab world (organized by non-governmental organizations with the participation of the Ministry of Foreign Affairs);

(d) "The Transition to Democracy and Human Rights", a workshop held at the Cairo Centre for Human Rights (a non-governmental organization);

(e) "The Rights of the Child in Egypt" (a non-governmental workshop);

(f) A seminar on globalization and its impact on Arab women (Casablanca, March 2000);

(g) A group workshop to discuss the position of Egypt vis-à-vis the implementation of the Convention on the Elimination of Discrimination against Women (a non-governmental group which included representatives from the competent ministries);

(h) These conferences, seminars and workshops were organized in cooperation with national, regional and international organizations such as UNESCO, the United Nations Development Programme (UNDP) and the League of Arab States.

122. At the governmental level awareness campaigns have been carried out via all media outlets and a media policy has been instituted with a view to achieving the following goals:

(a) To provide information about the principles of human rights recognized by the United Nations General Assembly and to ensure their implementation in Egyptian society. (Egypt takes every care to safeguard these principles and abide by the standards set therefor);

(b) To reaffirm Egypt's total commitment to the principle of the self-determination of peoples and their right freely to dispose of their natural wealth and resources;

(c) To affirm the importance which Egypt attaches in its relations with all peoples of the world to respect for their fundamental freedoms and their right to economic, social and cultural development;

(d) To proclaim the efforts of the State to promote respect for the rights of women and equality between men and women as rights which are guaranteed under the Constitution;

(e) To emphasize that Egypt and its people recognize and support the right to peace and the right to enjoy the common human heritage which has been affirmed by all civilizations, each built on the achievements of their predecessors. We also honour the dialogue among civilizations, as we can show with concrete examples;

(f) To declare that compliance with and the implementation of human rights standards can only be achieved by the joint efforts of peoples, nations and public and private institutions at all levels;

(g) In the context of the human right to enjoy access to the benefits of scientific progress, Egypt is endeavouring to catch up with developed countries by devoting special attention to scientific and technological research with a view to placing it at the disposal of the nation in order to achieve prosperity, progress and development;

(h) To proclaim the enjoyment by Egypt and its people of freedom of belief and respect for minorities and people of all ethnic origins;

(i) To shed light on the efforts made by the State and by institutions and private associations to protect the environment and guarantee citizens the right to live in a clean environment as one of their human rights;

(j) To show that Egypt is now living in an era of freedom and democracy and that the ground has been prepared for the right to freedom of opinion and respect for the freedom of opinion of others through the institution of a multiparty system and freedom of the press;

(k) To underline the concern and attention which the State pays to socially marginated, low-income and vulnerable groups with a view to providing them with the means to attaining a life of dignity by every step that the State takes in the sphere of development and through relevant decisions and legislative enactments;

(l) To call for the resolution within society of certain problems that are linked to human rights, such as illiteracy, unemployment, the expansion of health insurance coverage, the eradication of poverty and low levels of income in certain sectors, certain aspects of the environmental issue and the problem of mines, especially in the Alamein area.

123. The above-mentioned endeavours which Egypt is steadfastly pursuing at the domestic and international levels with a view to strengthening the means of raising awareness and disseminating information, education and training about human rights and related international instruments reflect the level of concern which is devoted to these subject by the government and non-governmental sectors and the extent to which they comply with the provisions of relevant international instruments and resolutions.

124. These efforts have helped to promote general awareness of these rights and a broad knowledge of such matters among all communities and groups. They have also helped significantly to improve general and individual behaviour in terms of the impact which they have had on public and private relations. From the practical point of view, this can be seen in the exercise of the right of litigation that is guaranteed to all and the right to have recourse to the Supreme Constitutional Court in order to obtain its rulings on matters involving the interpretation and contestation of these rights. The rulings that have been handed by the Court in the constitutional disputes brought before it have helped to increase awareness of these rights, promote adherence to the principles recognized therein and bring a halt to measures and legislation that are incompatible with or violate such principles. By the judgements which they have delivered, the judges of the Court have settled disputes over many differing interpretations of human rights and fundamental freedoms.

II. SUBSTANTIVE PROVISIONS OF THE ARTICLES OF THE COVENANT

Article 1

125. All peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

126. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

127. The States parties to the present Covenant, including those having responsibility for the administration of Non-self-governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

128. The document containing the Proclamation of the Egyptian Constitution expounds the Egyptian national view of and its steadfast policy regarding the freedom and right to self-determination of peoples, in the following terms: "We … the people of Egypt … pledge to indefinitely and unconditionally exert every effort to realize peace for our world, being convinced that peace can only be based on justice and that political and social progress for all peoples can only be realized through the freedom and by the independent will of these people."

129. It goes on to state: "The Egyptian people have been guided by rich human experiences at the national and international levels culminating in the integration of the struggle for national independence with the international struggle of mankind for political, economic, cultural and intellectual freedom ranged against the forces and vestiges of retrogression, domination and exploitation."

130. In keeping with the above and with the aims and purposes of the Charter of the United Nations and international human rights instruments, including the Covenant under consideration in this report, the right to self-determination is accorded pride of place in the Egyptian national view which aims at ensuring that the Egyptian people and all peoples are given the freedom to determine their own political status and to realize their economic, political and cultural development.

131. The Egyptian Constitution proclaimed in 1971 took care to emphasize that full sovereignty resides solely with the people, who are the source of authority and who exercise and protect this sovereignty in the manner stipulated in the Constitution (art. 3), on a democratic basis and within the framework of social guarantees.

132. Democracy is embodied in the constitutional commitment to the expression of the will of the people in election of the President of the Republic, through the People's Assembly and by popular referendum, and also in their choice of representatives to the legislative authority through the direct election of members to the People's Assembly and the Advisory Council. The rule of law is the basis of government in the State (article 14 of the Constitution). The State's subordination to the law and the independence and immunity of the judiciary constitute two fundamental guarantees for the protection of rights and freedoms (article 165 of the Constitution).

133. Moreover, the local people's councils, which are likewise constituted through direct elections, participate in the formulation and implementation of the development plan. Their relationship with the People's Assembly and the Government, and ways in which they control the various activities of the State, are regulated by law (articles 162 and 163 of the Constitution).

134. In accordance with the amendment of 22 May 1980, the Constitution now includes a new chapter (chap. VII) which provides for the establishment of an Advisory Council, two thirds of the members of which are elected directly, the remainder being nominated to give an opinion on legislation, constitutional matters, treaties of peace and alliance and other issues referred to it (articles 194-205 of the Constitution). Chapter VII also provides for the establishment of an independent and popular press authority which enjoys the freedom and independence to pursue its mission, in the public interest and in the manner specified in the Constitution and the law. The right of journalists to obtain information is recognized as is the principle that, in their work, they are subject to no authority other than the law (articles 206-211 of the Constitution).

135. Under the constitutional amendment of 22 May 1980, Egypt became a State, the political and economic systems of which are based on democracy, political pluralism, protection of legitimate gains, reduction of disparities between social classes, and the guaranteed distribution of public burdens and charges on an equitable basis (articles 206-211 of the Constitution).

136. What this means is that the Egyptian people are able to freely express their opinions and ideas through their constitutional institutions and to exercise their right to self-determination by effectively participating in the process of making and monitoring the implementation of decisions in all political, economic, social and cultural domains. The people also have complete sovereignty over all their natural resources, without prejudice to their international commitments to this right as recognized under the Charter of the United Nations and the principles embodied therein.

137. The natural resources and wealth of the country are regarded as public property for which protection is provided under the terms of article 33 of the Constitution which stipulate that public property is inviolable and that every citizen has a duty to protect and support it in the manner prescribed by law. The national economy is regulated in accordance with a general development plan (article 23 of the Constitution). Consequently it is not permissible to dispose of the country's wealth or natural resources other than pursuant to legislation enacted by the People's Assembly, the members of which are elected by the people. The national economy is regulated on the basis of a general development plan which guarantees the best possible investment of such resources and wealth.

138. As for international economic cooperation, according to article 151 of the Constitution following its publication, any international agreement which the State may conclude is regarded as equivalent to Egyptian law. Consequently, peace treaties, agreements concerning trade, alliances and shipping and all agreements which may be amended in the territory of the State or that concern sovereign rights or entail costs to be borne by the State coffers, are subject to the ratification by the People's Assembly.

139. Therefore, the Egyptian people enjoy every freedom to invest and exploit their natural wealth and resources in the context of general development plans proclaimed in accordance with the laws enacted by the elected People's Assembly, and the disposal of these resources is governed by the laws enacted by the legislative authority or by international agreements requiring the endorsement of the People's Assembly.

140. In the above context, the fourth Five-Year Plan (1997-2002) was promulgated pursuant to Act No. 89 of 1997, which stipulated the aims of the Plan. Its implementation was provided for under Act No. 90 of 1998, concerning the first year of the Plan, Act No. 25 of 1998, concerning the second year of the Plan, and Act No. 25 of 1999, concerning the third year of the Plan. Internationally, Egypt is a party to several bilateral, regional and international economic agreements confirming its commitment to the maintenance of friendly relations and ties and to international cooperation.

Paragraph 3

141. It should be noted that Egypt is not resporsible for the administration of any non-self-governing or trust territories in accordance with the provisions of the Charter of the United Nations.

Article 2

142. Each State party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

143. Where not already provided for by existing legislative or other measures, each State party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

144. Each State party to the present Covenant undertakes:

(a) To ensure that any persons whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

Paragraph 1

145. In part I of the present report, Egypt has provided details of the constitutional and legal protection which is afforded to the principles of human rights in Egypt and the legal status of the Covenant, which is deemed to constitute part of the country's legislation under the provisions of the Constitution pertaining to rights which must be protected. Part I also describes the means of redress available to guarantee the safeguarding of these rights and freedoms, even if they have been violated by a person acting in an official capacity. All of this is considered in the context of the principle of equality and non-discrimination stipulated under article 40 of the Constitution. In part I, Egypt also outlines a number of constitutional principles and rulings which have been handed down by the Supreme Constitutional Court and are binding on all the authorities of the State.

146. With reference to the esteemed Committee's General Comment No. 15/27, all of the laws in force pertaining to the rights and freedoms recognized in the Covenant apply without distinction both to citizens and foreigners, subject to the same limitations and guarantees established under the law. In accordance with the Supreme Constitutional Court ruling to which reference was made in section 4, part I, of this report, the right of litigation is guaranteed to all citizens and foreigners in the country according to the same guarantees that are required for the administration of justice. In addition, pursuant to article 68 of the Constitution, the State is

required to guarantee every individual, nationals and foreigners alike, access to the courts and the requisite protection of acquired rights in accordance with such fundamental guarantees as are necessary for the effective administration of justice and with the standards prevailing in developed countries.

147. It follows that, all rights are safeguarded and they cannot be arbitrarily denied, whether they entail the right to life, protection against torture, cruel treatment or slavery, and the right to enjoy personal freedom and security. All of the guarantees accorded to citizens in respect of personal freedom and criminal proceedings are applied to these rights.

148. As we explained in section 3, part I of the present report, after it was ratified in Egypt, the Covenant became a law of the country. Since the Egyptian legislature incorporated the rights and freedoms embodied therein into the Constitution, these rights and freedoms enjoy constitutional protection such that they may not be infringed. The legislature must bring the Constitution into line with the rights and freedoms recognized in the Covenant in a manner consistent with the principle established by the Supreme Constitutional Court that the legitimate expectations of people in democratic systems vis-à-vis the State are indivisible.

149. In section 4, part I, of the present report Egypt described the means of redress available in the country and the mechanisms which monitor and guarantee protection against any violation or infringement of the rights and freedoms recognized in the Covenant and the Constitution. It also described the commitment made by the State to providing compensation pursuant to article 57 of the Constitution, which states that any assault on individual freedom or the inviolability of the private life of citizens and any other public rights and freedoms guaranteed by the Constitution and the law shall be deemed a criminal offence, in respect of which civil and criminal proceedings may not be statute-barred and the State pays equitable compensation.

Article 3

150. The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

151. At the beginning of the sixteenth century Egypt was subjected to Ottoman occupation, causing a sharp decline in all aspects of its cultural life. The situation of Egyptian women suffered a severe setback, which was more noticeable in Egypt's large urban centres compared with their situation in rural areas where women retained their role as productive workers in partnership with men.

152. At the beginning of the nineteenth century, Egypt began its modern renaissance by building a State influenced by Western culture. An enlightened movement was the standard-bearer for this goal in opposition to those who rejected progress. Throughout the changes of political system and authority in Egypt from the beginning of the nineteenth century to the present day, there has been sustained support for this enlightened movement, one of the most important goals of which was to guarantee the rights of women.

153. Ever since Egyptian women began their renaissance movement at the beginning of this century, the Egyptian Government has taken whatever measures were necessary and appropriate in order to support, strengthen and develop all enlightened tendencies which supported and assisted that movement. The 1923 Egyptian Constitution gave expression to the clear inclination of the Egyptian Government and people when it stipulated, in article 19, that primary education was compulsory for Egyptian boys and girls. The 1956 Constitution reflected the achievements and successes of the women's movement at that time at the local and international levels. It also took into account the provisions of the Convention on the Political Rights of Women, adopted by the General Assembly in 1952. In article 31, it laid down the principle of equality and non-discrimination on grounds of gender, origin, language, religion or ideology. In article 19, it established the obligation of the State to help women reconcile their duties to their families and their work.

154. Pursuant to this constitutional principle, in 1956 the law on the exercise of political rights stated that women had the right to vote and to stand for election to parliament and all local councils. In 1971, the present Egyptian Constitution made a commitment, awaited at that time by the people, to two international human rights instruments: the International Covenant on Civil and Political Rights; and the International Covenant on Economic, Social and Cultural Rights. Articles 11 and 40 are in direct response to the principles of those instruments, and articles 10 and 11 respectively introduce the State's obligation to protect the mother and child and to guarantee the equality of men and women in the political, social, cultural and economic spheres.

155. Legislation was introduced pursuant to the aforesaid constitutional principles that confirmed the precepts of equality and non-discrimination against women. At the practical level, these principles find expression in a number of governmental and non-governmental organizations and institutions that endeavour to encourage and support the genuine enjoyment by women of all their rights and to develop their effective participation in all spheres on an equal footing with men.

156. Egyptian women have made a number of significant gains as a result of State support in various areas of the women's movement. Similarly, the State's efforts to elaborate women-oriented development plans, particularly in education and the eradication of illiteracy, have, by controlling the population-growth rate, had an impact on the realization of one of the State's goals. As a result, Egypt has been awarded the United Nations Population Award.

157. Egyptian women's important and influential participation in the general workplace has culminated in appointments to two ministries in the current cabinet and an increase in the number of women appointed to positions of authority in various sectors in the country, both governmental and non-governmental. State efforts with regard to the eradication of female illiteracy have had notable success in reducing illiteracy to acceptable levels. Egypt is striving to continue those efforts in order to secure the eradication of female illiteracy.

158. In the following section we shall describe the legal measures taken to uphold the principle of equality between men and women, the method used to strengthen and promote the exercise by women of their fundamental rights, the measures used to overcome any obstacles in this regard and, finally, some statistical indicators.

Legal measures concerning the equality between men and women

159. In 1932, out of commitment to its vision of and national strategy concerning non-discrimination against women and their equality in all fields, and in accordance with the provisions of successive Egyptian constitutions since 1923, Egypt acceded to the International Agreement of 18 May 1904 for the Suppression of the White Slave Traffic, and to the International Convention of 4 May 1910 for the Suppression of the White Slave Traffic. In 1955 it acceded to the Protocol amending those instruments. In 1959, pursuant to Republican Decree No. 884, Egypt acceded to the Convention that replaced the two previous instruments, namely the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, adopted by the General Assembly in 1949.

160. Subsequently, in 1971, Egypt signed the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights of 1966. Pursuant to Republican Decree No. 345 of 1981, Egypt acceded to the Convention on the Political Rights of Women and, pursuant to Republican Decree No. 434 of 1981, it acceded to the Convention on the Elimination of All Forms of Discrimination against Women. (The Convention on the Elimination of All Forms of Discrimination against Women was published in Arabic in the Official Gazette No. 51 of 17 December 1981.) Below, we will refer to some of the relevant basic Egyptian laws.

Political rights

161. Article 1 of Act No. 73 of 1956 on the exercise of political rights stipulates that all Egyptian men and women over 18 years of age may personally exercise their specified political rights. Article 4, as amended by Act No. 4 of 1979, obliges men and women to register as voters. (This is in accordance with the Convention on the Political Rights of Women, and it preceded Egypt's accession thereto.)

Work

The Labour Code (concerning private sector employment)

162. Article 130 of Act No. 197 of 1959, concerning the Labour Code, stipulates that all its provisions apply to working women, with no distinction as to job. Act No. 137 of 1981 (the present Labour Code) does the same. In accordance with the International Labour Organization conventions concerning the employment of women, the law prohibits the employment of women in jobs that could damage their health or morals or in any other job to be specified by the relevant ministries. The Act requires any employer of more than 100 women to set up or share the cost of providing a nursery, and in article 174 it provides penalties for any infringement of the provisions regarding the employment of women.

Acts governing employment by the State and the public sector

163. There are no provisions in the Acts governing the arrangements for those working for the State or public sector that prejudice the principle of equality between men and women. On the contrary, both Acts guarantee women special privileges in order to ensure the welfare of working women and help them to reconcile their family obligations with their work.

The Children's Act

164. The Children's Act No. 12 of 1996 contains a special chapter on working women which stipulates the treatment to be afforded to women working for the Government and the public sector and those working in the private sector. The Act recognizes the right of working women to the following privileges:

(a) The right to take three months' maternity leave on full pay three times during her working life (art. 70);

(b) For the two years following the date of delivery, she may take two rest breaks on full pay, in order to breastfeed her child (art. 71);

(c) The right to take two years' unpaid leave to look after her children on three occasions during her working life (art. 72).

Act No. 57 of 1978, concerning mayors and local councillors

165. At the time of its promulgation, article 3 of the Act stipulated that any person holding this post had to be an Egyptian male. This condition was repealed by virtue of an amendment introduced under Act No. 26 of 1994.

Education

166. Article 15 of Act No. 139 of 1981, concerning education, grants the right to eight years of free elementary education to all Egyptian children (boys and girls) from the age of six. It obliges the State to make provision for this right and the parents or guardians to implement the obligation, in accordance with the relevant international instruments. The penalties for any infringement of the provisions of the Act by parents or guardians, irrespective of whether the child is male or female, are stipulated in article 19 thereof.

Civil capacity

167. In accordance with the provisions of the Civil Code and related laws, all Egyptians, male and female alike, enjoy civil rights in conformity with the legally established provisions relating to capacity, from the point of view of the terms on which they can or cannot be invoked. In this respect, there is no discrimination and there are no restrictions that apply to women and not to men. Marriage does not annul or otherwise affect these rights and does not place any restrictions on their exercise by women.

Laws of litigation

168. The right to litigate is guaranteed to both men and women on an equal footing, without differentiation, discrimination or preferential treatment. The laws pertaining to litigation make no distinction in this respect: Egyptian women have the right of recourse to the law in all its forms and at all levels, the right to act as a witness in court and to benefit from the relevant judicial and legal aid schemes.

169. Pursuant to Act No. 1 of 2000, regulating certain procedures and measures pertaining to litigation in matters of personal status, the capacity to litigate in questions relating to guardianship is accorded to any person who has reached the age of 15.

Social insurance

170. The laws relating to social insurance and pensions make no distinction between men and women with regard to the rights they provide. In fact, in certain cases, a woman is entitled to combine her pension with that of her husband. The Children's Act No. 12 of 1996 also accords special privileges to working women by requiring government employers in the public sector to pay social security contributions owed in respect of working women while they take leave, without pay, to care for children.

The Nationality Act

171. In accordance with the provisions of the Nationality Act (Act No. 26 of 1975), anyone, male or female, who is born in Egypt to an Egyptian mother and whose father is of unknown nationality or is stateless is entitled to Egyptian nationality. Nationality is also granted to anyone who is born to an Egyptian and whose paternity cannot be legally established, to anyone who is born in Egypt to parents of unknown nationality and to anyone who is born outside Egypt to an Egyptian mother and whose father is of unknown nationality or is stateless. A foundling in Egypt is deemed to have been born there failing proof to the contrary (arts. 2 and 3). This is in accordance with the Convention on the Reduction of Statelessness and with the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights, and it is intended to prevent dual nationality and the resulting cases of conflict of laws at the international level. The provisions of this Act address the issue of nationality in the case of the marriage of a foreign man and an Egyptian woman or of an Egyptian man and a foreign woman by establishing the basic principle that Egyptian nationality may neither be imposed on a non-Egyptian woman without her consent nor withdrawn from her on termination of her marriage to an Egyptian unless she reverts to her original nationality. An Egyptian woman who marries a foreigner loses her Egyptian nationality only if she wishes to do so and if the law of nationality of her husband's country confers nationality on her. She nevertheless has the right to retain her Egyptian nationality if she wishes or to revert to it should the marriage be terminated. The Act also stipulates that the withdrawal or forfeiture of nationality in the cases specified shall have no effect on any person other than the individual involved.

172. Where the nationality of a minor has been changed to that of his or her father, the Act provides that he or she may choose to revert to his or her original nationality on reaching maturity. The First National Conference on Women in Egypt, held in 1994, recommended that

consideration should be given to alleviating the difficulties faced by the children of an Egyptian mother and an alien father. Accordingly, the Minister of Education promulgated Decree No. 353 of 20 December 1994. This exempted immigrant students who were the offspring of divorced or widowed Egyptian mothers and who could demonstrate need from the payment of fees in State schools, thereby according them full equality with Egyptians in regard to financial treatment. The Decree also provided for the reduction of such fees by one half for the children of Egyptian women in other categories.

Health care

173. None of the laws relating to health care or health insurance contain any reference to discrimination between men and women with respect to the care patients should receive or the benefits to which they are entitled.

174. The State makes every effort, through family planning, pre- and postnatal and paediatric care schemes and programmes, to provide special health care to women in order to protect their health and the health of the foetus up to the moment of birth.

175. Article 8 of the Children's Act No. 12 of 1996, provides for the health care of women by making it unlawful for any person other than a doctor or registered midwife to practise as birth attendants. It also stipulates the penalties for any infringement of that provision.

The Penal Code

176. The Egyptian Penal Code (Act No. 58 of 1937) categorizes all acts of violence or attacks against women as crimes and regards the age of the victim and the degree of consanguinity or affinity between the victim and the assailant as aggravating factors in the assessment of penalties.

177. Article 267 provides a penalty of short-term hard labour for cases of sexual assault on women, to be increased to life imprisonment at hard labour in cases where the assailant is an ascendant or guardian of the victim or her supervisor, or is working in her home. The Act introduces the death penalty for the abduction of a woman through deception or by force if the victim is sexually assaulted (art. 290, as amended by Law No. 214 of 1980). In an effort to eradicate the crime of female abduction, the Egyptian legislator has promulgated Act No. 14 of 1999 which revokes the pardon previously granted to the abductor in the event of marriage to the victim.

178. The Act provides for a penalty of three to seven years' hard labour for the rape of a person, male or female, whether by use of force or of intimidation. Where the victim is under 16 or where the offender is the victim's ascendant, guardian or supervisor or works in the victim's home, the penalty imposed is the legal maximum. Where both of these conditions are met, the penalty is life imprisonment at hard labour (article 269 on penalties).

179. Egyptian law penalizes abortion resulting from beating or abuse or induced by drugs or other means. The former offence is punished by short-term hard labour and the latter by a prison sentence. These penalties may be applied to the woman if she is a willing party or places herself

in the hands of another. The penalty is increased to life imprisonment at hard labour if the abortion is carried out by a doctor or midwife (articles 260-263 on penalties). Other forms of abuse, beating and violence are dealt with in articles 240 to 244 of the Penal Code, and they are categorized according to whether they are accidental or intentional and whether weapons or instruments are used and by the damage caused. Penalties for the acts in motion vary in accordance with these criteria, and in this respect the law makes no distinction between men and women and its provisions apply without regard to marital status or consideration of kinship.

180. By articles 279 and 306 bis of the Penal Code, the legislature characterizes as a criminal anyone who commits an indecent act with a woman, even in private, or who does or says anything to a woman that offends her modesty. The penalty is imprisonment or a fine, and penalties are increased if the act is repeated within one year.

181. In order to combat the phenomenon of intimidation and the threat or use of force or violence against a wife, children or ascendants, the Egyptian legislature promulgated Act No. 6 of 1998 which characterizes such acts as criminal offences and stipulates a penalty therefore of no less than one year in prison, rising to five years if threats were made against a female or a minor under the age of 18.

Combating prostitution

182. Subsequent to Republican Decree No. 884 of 1959, by which Egypt acceded to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, and pursuant to the provisions of the Convention, Act No. 10 of 1961 concerning the suppression of immorality was promulgated. The Act characterizes as crimes, incitement, procurement, enticement or seduction for the purpose of committing immoral acts or prostitution. Penalties are more severe when such acts are compounded by deception, force, intimidation or the abuse of power and when the victim is under 21 years of age (articles 1 and 2 of the Act).

183. The Law also criminalizes enticement or procurement for the purpose of conveyance overseas or securing entry to the country of persons to be employed in prostitution (arts. 3 and 5). Penalties are increased in the aforesaid cases where the victim is under 16 or where the offender is the victim's ascendant, guardian or supervisor or works in the victim's home (art. 4).

184. The Act punishes: the provision of assistance to a woman in the practice of prostitution or the exploitation of the prostitution of others; attempts to commit the offences referred to; the keeping, management or rental of a building for such a purpose and investment or employment therein; and cases of recidivism (articles 6-13 of the Law).

Commercial competence

185. The age of majority is the same for both civil and commercial purposes in Egyptian law (article 44 of the Civil Code and article 4 of the Commercial Code), namely 21 for both men and women. Marriage has no effect on a woman's competence in this respect or on each spouse's individual property rights. The financial responsibilities of each remain separate.

186. Egyptian law requires a foreign spouse who engages in trade to declare the financial arrangements of his or her marriage.

Capacity for marriage and family responsibilities

187. In Egypt, marriage is a consensual contract requiring the full and explicit assent of the woman. The minimum legal age for marriage is 18 for men and 16 for women. Since it is a matter that relates to personal status, it is also subject to the provisions of the religious law of each of the parties as they relate to validity and termination.

188. By law, women may have custody of their male children until the age of 10 and of their female children until the age of 12. The law provides for the possibility of extending a woman's custody of a male child until he is 15 and of a female child until her marriage. A father has the right to see his child throughout the period of maternal custody, and he remains responsible for financial support. In accordance with the law of trusteeship, a woman may be the trustee or guardian of a minor, subject to legally specified circumstances and conditions.

Promotion of the exercise by women of all their rights and fundamental freedoms

189. Perceptible progress has been made recently and there have been important and positive developments in Egypt that have strengthened the means available for the promotion of the enjoyment by women of all their basic rights. There have been developments at the international and local levels and in the governmental and non-governmental sectors, as will be shown in detail hereunder.

Government action

190. Action by the government sector has been closely linked with Egypt's national policy for the advancement of women in all spheres. Such action has primarily had the goal of raising women's awareness of all the basic rights and fundamental freedoms guaranteed to them by the Constitution and the law with a view to ensuring the full and effective exercise of those rights and freedoms. The natural approach to such action was through advocacy of the following policies:

(a) Enforcement of the laws relating to education at the compulsory and other levels so as to improve attendance rates and eliminate absenteeism by creating an appropriate link between educational institutions and the social milieu;

(b) Modification and development of curricula by introducing the study of instruments relating to all human rights and fundamental freedoms at all levels of education;

(c) A focus on the eradication of illiteracy among women, particularly in rural areas, linking literacy programmes with the given environment and using appropriate methods;

(d) Development of suitable programmes that use the tremendous potential of radio and television and are adapted to the target audience in order to promote awareness of the rights of women in all spheres;

(e) Encouragement of the non-governmental sector to play a part in mobilizing voluntary efforts in developing the capacities necessary to train skilled personnel;

(f) Encouragement of international cooperation at all levels and use of relevant international expertise and resources;

(g) Creation of appropriate mechanisms at the national level to monitor plans in this domain and ensure the necessary coordination between all the ministries and State institutions concerned;

(h) Establishment of research centres to facilitate the development of appropriate plans and programmes and channel resources in a scientific manner so that the desired goals can be achieved.

191. These major policy goals of government action have given rise to a number of effective mechanisms to support and monitor the advancement of women in securing the exercise of all their rights, namely:

(a) The National Committee for Women, established in 1978 and reorganized in 1994 as the national agency responsible for Egyptian women's issues at the international and local levels;

(b) The National Council for the Mother and Child, established in 1988 as the official agency responsible for child-related issues, including, of course, issues relating to women as mothers;

(c) The Ministry of Population and Family Affairs to be responsible for such matters as family planning, mother and child health and health education, and the National Population Council, which is essentially concerned with these spheres;

(d) The National Institute for Adult Education, set up in 1991 to promote literacy among adults of all ages;

(e) Departments concerned with women's issues, established or strengthened at various times in the Ministries of Social Affairs, Health, Agriculture and Foreign Affairs and in the Central Statistical Unit, given expanded functions and encouraged to exchange international experts with counterpart agencies.

192. The National Council for Women was established pursuant to Republican Decree No. 90 of 2000, issued on 8 February 2000, and replaces the National Committee for Women established in 1978. An independent national body, the Council has responsibility for promoting the advancement of Women and designing the necessary policies and programmes for their effective participation in society and the overcoming of negative attitudes and problems which hamper their movement in society. It is also responsible for developing appropriate solutions to the obstacles that women continue to face, particularly in rural areas.

193. As a reflection of State policy with regard to women and as a result of the efforts of the aforesaid mechanisms, there was increased activity during the first half of 1994 in the domain of national action. A "National Dialogue" conference and a National Conference on Women were held and resulted in many important recommendations relating to women's issues. The relevant authorities are engaged in studying the recommendations and translating them into programmes of action, decisions or laws, in accordance with the legal requirements for each of them. The World Assembly on Education was held in Egypt in September 1994, and issues concerning women's education, particularly in rural areas, had a prominent place in the discussion and in the recommendations adopted.

194. In the same time frame, the International Conference on Population and Development was held in Cairo. Many of the topics discussed there concerned women, and all the Egyptian governmental and non-governmental organizations concerned with women took part in the activities of the Conference and contributed to its final documents.

195. Under the heading "Policies for the Advancement of Egyptian Women", the second National Conference on Egyptian Women was held in 1996. In 1997, the National Committee for Women, in cooperation with research agencies, trade unions and political parties, prepared the conceptual framework for the inclusion of a female component in the State's fourth Five Year Plan covering the period 1997/98 to 2001/02. The framework, which reflects the real situation of women in Egypt, the indicators relating thereto, the goals that could be included in the Plan, and the policies that would support the realization of such goals, was then translated into programmes and projects by the ministries concerned. One section of the fourth Five Year Plan is devoted to mother-and childhood-oriented projects and investments, and another to projects for the advancement of women and investments for their implementation. The third National Conference of Egyptian Women, entitled "Advancement of Rural Women", was held in 1998, and discussed the promotion of literacy, education, health, education about reproductive health, the advancement of rural women, the development of micro-enterprises and the promotion of rural women's awareness of their political, social and legal rights.

196. All the agencies concerned with women, particularly the National Council for Women, are engaged in studying the Conference's recommendations.

Action by non-governmental bodies

197. Act No. 32 of 1964 offers clear confirmation that the Government's policy of encouraging the non-governmental sector has had a noticeable impact on action by this sector. There has been an increase in the number of registered associations working in fields relating to

the advancement of women, particularly those of family planning, the promotion of literacy, the development of household resources (associations for "productive families"), the advancement of rural women, childcare, the care of the elderly, mother and child health care and various services.

198. In 1997, the number of registered associations had reached 14,748.

International cooperation

199. Through its official participation in all the relevant international and regional conferences, Egypt has sought to make a serious and effective contribution to international cooperation relating to women in all fields. It was quick to associate itself with the call for the convening of a Summit on the Economic Advancement of Rural Women and, in February 1992, it participated in the elaboration and adoption of the Geneva Declaration for Rural Women. The aforementioned government bodies concerned with women's affairs reached agreement with international institutions and organizations and specialized agencies on numerous programmes and plans for projects in the fields of education, health, agriculture, childhood issues, family planning, training, social welfare, training in income generation and the advancement of rural women.

200. The Egyptian delegations to the international conferences on human rights (Vienna, 1993), population and development (Cairo, 1994) and social development (Copenhagen, 1995) and the Fourth World Conference on Women (Beijing, 1995) took particular care that the respective final documents should include specific sections on the situation of women, the protection of women's rights and the advancement of women.

III. MEASURES TAKEN TO DEAL WITH DIFFICULTIES AND OBSTACLES

201. As the foregoing clearly shows, the principle of equality between men and women is a constitutional principle which is recognized in articles 11 and 12 of the Egyptian Constitution. The State guarantees equality in all domains and is required to ensure that women are able to reconcile their family responsibilities with their work in society. The Egyptian legislature is bound by the said constitutional principles in terms of the laws and regulations which it enacts and to which reference is made in part 1 hereof.

202. The aforementioned constitutional principles, to which the legislature is committed, undoubtedly require efforts to overcome all the obstacles created by the negative aspects of some prevailing customs and concepts, the combination of which is impeding achievement of the desired development and progress. Accordingly, the Government has formulated national plans, programmes and measures to overcome and eliminate those obstacles. In the light of the recommendations of the Beijing Conference concerning the need for government policies to take account of the views of women, a female component has been included in the Socio-Economic Development Plan with a view to ensuring gender equality and the advancement of women.

203. The purpose of the inclusion of a female component in the State's overall development plan is to bridge the gender gap through the economic, social and political empowerment of women and the improvement of their education and health, which will increase the country's

ability to mobilize its latent productive resources since women constitute half of the labour force. It will also help to increase investment and income growth rates and improve the human development indicators in various fields.

204. The conceptual framework of the female component, which was formulated by a group of researchers representing all ideological trends, academic institutes, universities, trade unions and private associations, covered the following aspects:

(a) The indicators of the present situation of Egyptian women in various fields;

(b) Definition of the aims of the advancement of women in the light of the present situation;

(c) Proposal of a set of policies that the plan could adopt in order to help achieve those aims;

(d) The need to accord priority to the categories in need of special care, namely rural women and female children.

205. The main achievements that the State has made in its endeavours to promote equality between men and women are as follows:

(a) An increase in the proportional participation by women in the various fields of economic development, particularly industrial production, in order to help poor women;

(b) Modification and adaptation of vocational education and training programmes in a manner consistent with the needs of women and the requirements of the labour market;

(c) Support for micro-projects undertaken by poor women who are family providers, by facilitating their access to loans, education and training in order to improve their standard of living;

(d) Encouragement and support of non-governmental associations the main aims of which include enhancement of the socio-economic situation of women.

206. The national women's conferences that are held by specialized agencies regularly evaluate those endeavours, determine the extent to which the relevant plans have been successful, identify and try to eliminate the obstacles impeding the achievement of those aims, and reset the priorities of those aims in the light of the indicators compiled by the specialized researchers or the actual problems which women face in their lives.

207. The promotion of female literacy, particularly among the older age group, is considered on of the most important challenges posed to programmes and plans for the advancement of women in Egypt, since female illiteracy is a cumulative phenomenon born of the mistaken practices handed down through the generations. Educational programmes have therefore scored noticeable success among young girls, with coverage extending to 99 per cent of that age group

in the elementary stage of education and drop-out rates falling to an all time low. According to the data for 1997/98, the drop-out rate at the elementary stage stood at 1 per cent, while the corresponding figure for the preparatory stage was 3 per cent.

208. Higher rates of illiteracy among women in Egypt compared to men are currently found only in the older age group and can be ascribed to the following historical reasons:

(a) The distance that had to be travelled to school was a fundamental obstacle to the education of females in rural areas;

(b) Families were unable to afford education;

(c) The contents of textbooks failed to reflect students' needs;

(d) There were no opportunities to educate females in remote and deprived areas, where it was difficult to offer educational services;

(e) The prevailing customs and traditions in certain areas meant that families were reluctant to educate their female children;

(f) Marriages were contracted at an early age.

209. Several intensive courses and schemes have been set up to reduce the illiteracy rate among older persons, particularly rural women, through literacy classes and the adaptation and offering of intensive vocational and training courses to suit the needs both of women and the labour market.

IV. STATISTICAL INDICATORS RELATING TO WOMEN IN EGYPT

210. The percentage of women employed in government jobs rose from 30 per cent in 1992 to 45 per cent in 1996.

211. The proportion of women in senior positions in the government sector rose from 11.8 per cent in 1992 to 15 per cent in 1996 and 16.7 per cent in 1998.

212. In the most recent cabinet reshuffle, in October 1999, the Ministries of the Environment and Social Affairs both went to women.

213. For the first time, in 1998, a woman was appointed president of a judicial body (the Office of the Administrative Prosecutor). She was succeeded by another woman, in accordance with the rule of seniority which applies to the appointment of presidents of judicial bodies.

214. According to the most recent survey, the number of women trade-union members stands at 700, accounting for 39 per cent of the whole. The proportion of women trade-union leaders stands at 15.8 per cent.

215. Women hold 437 seats on local councils. Since 1998, there have been 15 women deputies in the Advisory Council and 11 in the People's Assembly.

216. The proportion of women in university teaching faculties rose from 29.3 per cent in 1990 to 31.7 per cent in 1996.

217. The female participation rate in the diplomatic profession has now reached 15.3 per cent.

218. The number of women holding a Masters degree or doctorate as a proportion of all recipients rose to 65.8 per cent by 1996.

219. The percentage of women working in liberal professions increased from 18.7 per cent in 1984 to 21.2 per cent in 1999.

220. The above results are a mark of the progress achieved in concrete terms and so they underscore the success of the pertinent plans and programmes for the advancement of Egyptian women.

221. In this connection, the third section or part III of this report will furnish a number of indicators relating to the advancement of women in Egypt and the results that have been attained.

Article 4

222. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

223. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

224. Any State party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

225. The constitutional and legal provisions applicable in time of public emergency and the principles enshrined therein were described in detail in Egypt's second periodic report in the following terms.

226. States of emergency which are proclaimed in the country are regulated by article 148 of the Egyptian Constitution, which stipulates that a state of emergency can be proclaimed by the President of the Republic but must be submitted to the People's Assembly for ratification

within 15 days from the date of its proclamation. The same article further stipulates that a state of emergency can be proclaimed only for a specified period of time, which can be extended solely with the approval of the People's Assembly.

227. The Egyptian Legislature followed the system of pre-emergency legislation by promulgating Act No. 162 of 1958, as amended by Act No. 37 of 1972, Act No. 164 of 1981 and Act No. 50 of 1982, which contain the provisions and regulations to be applied when a state of emergency has been proclaimed in the country. These legislative instruments define the circumstances in which a state of emergency can be proclaimed, the authority competent to proclaim it, the procedure for its extension, the measures that can be taken while it is in force, the circumstances in which complaints can be lodged against it, the procedures to be followed by the emergency courts and the effects of the termination of the state of emergency. These provisions are explained in greater detail below.

Justification of the proclamation of a state of emergency

228. The Act permits the proclamation of a state of emergency in conditions in which public order and security are endangered due to the outbreak of war, the existence of a situation that threatens to lead to such an outbreak, the occurrence of disturbances within the country, general disasters or the spread of an epidemic (art. 1).

The authority competent to proclaim a state of emergency

229. A state of emergency must be proclaimed and terminated by a presidential decree stating the reason for its proclamation and specifying the area in which it will apply, as well as the date of its entry into force and its duration.

230. The decree must be submitted to the People's Assembly for ratification within 15 days. If it is not submitted to, or not approved by, the People's Assembly, the state of emergency is deemed to be terminated (article 2 of the Act, as amended by Act No. 37 of 1972).

Extension of the state of emergency

231. A state of emergency cannot be extended beyond the period specified in the decree by which it was proclaimed without the approval of the People's Assembly. It is deemed to be terminated unless such approval is granted before the expiration of the said period (article 2 of the Act, as amended by Act No. 37 of 1972).

Measures that can be taken during a state of emergency

232. When a state of emergency has been legally proclaimed, the President of the Republic is empowered to take appropriate measures to avert the danger threatening the country and maintain security and order. He may impose restrictions on freedom of assembly, movement and residence, order the arrest and search of suspicious persons who pose a threat to security, censor correspondence and the press, determine the working hours at public institutions, issue

any work assignments, seize movable and immovable property (without prejudice to the provisions of the Mobilization Act concerning complaints and compensation), withdraw licences for firearms and explosives and evacuate or isolate any areas.

233. The scope of these measures can be expanded only with the approval of the People's Assembly, in accordance with the procedures that must be followed for the proclamation of the state of emergency itself (article 3 of the Act).

Circumstances in which complaints can be lodged against measures taken during a state of emergency, and the rights of persons who suffer detriment as a result thereof

234. Anyone who is arrested or detained must be informed immediately of the reasons for his arrest or detention and has the right to contact any person whom he may wish to notify of what has happened. He is also entitled to avail himself of the services of a lawyer.

235. The detainee must be treated in the same way as a person held in precautionary detention.

236. The detainee, and any other persons concerned, have the right to lodge a complaint with the Higher State Security Court if he is not released within 30 days from the date of issue of the arrest warrant.

237. The court must hand down a substantiated decision on the complaint within 15 days from the date of its submission, failing which the detainee must be released immediately.

238. Any person whose complaint has been rejected has the right to submit a new complaint 30 days after the rejection of his previous complaint.

239. The Minister of the Interior has the right to appeal against a release order issued by the court. Such appeal must be heard, within 15 days of its submission, by another division whose decision is final (article 3 bis added to Act No. 60 of 1968, as amended by Act No. 37 of 1972, Act No. 164 of 1981 and Act No. 50 of 1982).

The court competent to hear complaints against detention orders

240. The Egyptian Emergency Act makes provision for the formation of State security (emergency) courts which are competent to hear cases involving offences in violation of the provisions of decrees promulgated in connection with a state of emergency, as well as offences under the ordinary law which the President of the Republic decides to place under their jurisdiction. These courts are constituted as follows.

241. Lower State security courts, established within the area of jurisdiction of each court of first instance and presided over by one of the latter's judges, are competent to hear cases involving offences punishable by imprisonment and/or a fine. The President of the Republic is empowered to appoint two officers as additional members of such courts.

242. Higher State security courts, established in the area of jurisdiction of each court of appeal and presided over by three of its justices, are competent to hear offences punishable by a criminal penalty, as well as other offences specified by the President of the Republic. Two officers may be appointed as additional members of such courts by order of the President of the Republic.

243. Actions brought before these courts are instituted by members of the Department of Public Prosecutions, who are vested with the powers of examining magistrates. (members of the Department of Public Prosecutions in Egypt enjoy judicial immunity).

244. These courts follow the procedures laid down in the legislation in force in regard to the hearing and judgement of cases and enforcement of the sentences handed down.

245. Judgements handed down by State security (emergency) courts are subject to ratification by the President of the Republic and do not become final before such ratification. If the accused is acquitted during a retrial ordered by the President of the Republic, ratification of the verdict is mandatory.

246. Before judgements are ratified by the President of the Republic, both they and any appeals lodged against them must be examined either by a justice presiding over a court of appeal, or by a solicitor general designated to that end. They must ascertain the correctness of the procedures, examine the appeals and express their opinion, by means of a substantiated memorandum, in each criminal case.

247. The President of the Republic is empowered to order a stay of court proceedings, to commute a sentence and to cancel or suspend the enforcement of any principal, supplementary or incidental penalty either before or after ratification (articles 7, 9, 10, 12, 14 and 16 of the Act).

248. A state of emergency was proclaimed in Egypt on 6 October 1981 by Presidential Decree No. 560 of 1981, following the assassination of President Mohammed Anwar al-Sadat. It has been extended with the approval of the Egyptian legislature, which has judged that the conditions for its proclamation continue to apply. Presidential Decree No. 105 of 2000, which was ratified by the People's Assembly on 26 February 2000, is the latest of such decrees and it provides for the extension of the state of emergency until 31 May 2003.

249. The proclamation of the state of emergency in the country does not bring a halt to the due process of law nor does it impede the application of constitutional and legal principles outside the scope of measures taken pursuant to the said proclamation. It is noteworthy that, since the proclamation of the state of emergency, State security (emergency) courts have pursued their work without including any members of the military therein. Pursuant to Presidential Decree No. 1 of 1981 these courts are competent to hear cases involving offences under the ordinary law as regards the internal and external security of the State, explosives, communications, weapons, supplies, public assembly, political parties, the maintenance of order in educational institutions and the Protection of National Unity Act.

Judicial applications

250. The Supreme Constitutional Court has ruled that a State security (emergency) court which has been designated by the legislature as having competence to render judgement in complaints concerning detention and arrest orders thereby becomes the natural adjudicator of such disputes and that this cannot be deemed an infringement of article 68 of the Constitution (Case No. 55, judicial year 5, session of 16 June 1984).

251. The Supreme Constitutional Court has also ruled that the ratification of State security (emergency) court rulings by a military court is an important, fundamental and indispensable element in the finalization of a verdict and the attribution of a binding character thereto (Appeal No. 5, judicial year 11, session of 6 April 1991).

252. The Emergency Act contains no provisions derogating from the obligations set forth under paragraph 2, article 4, of the Covenant, from which no derogation is permitted. In addition, the provisions of the said article are deemed to be a law of the country, insofar as the Covenant is likewise regarded as such under the terms of article 151 of the Constitution.

Paragraph 2

253. The Emergency Act contains no provisions that invalidate constitutional, legal, judicial or representational principles or dilute any of the rights or freedoms from which, pursuant to the provisions of this paragraph of the Covenant, no derogation is permitted. Consequently, no person may be deprived of his life other than in accordance with the legally prescribed judicial procedures. No one may be subjected to torture or to medical or scientific experimentation without his free consent nor may he be held in slavery or detention on account of his inability to fulfil a contractual obligation or his infringement of a legal principle or perpetration of an act that did not constitute a legally designated offence at the time of its commission. No one may renounce or be deprived of legal personality nor may restrictions be imposed on religious freedoms. These freedoms enjoy the protection of the Constitution and the law and there can be no derogation there from, even in time of public emergency. Accordingly, anyone who suffers detriment as a result of the infringement or violation of these rights may have recourse to the civil or administrative courts in order to seek the punishment of those responsible and compensation for any injury sustained.

Article 5

254. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.

255. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

256. As already indicated in sections 2 and 3 of part I of the present report, under the terms of article 151 of the Constitution, the human rights instruments to which Egypt accedes are deemed to constitute part of Egyptian law once the procedures for their ratification have been completed and they have been published, in Arabic, in the Official Gazette. Moreover, given the direct bearing which they have on the principles laid down in the Constitution, these instruments enjoy the protection prescribed constitutional rules such that they are binding on the legislative authority. Any law enacted in contravention of the provisions of the Constitution shall therefore be regarded as defective and may be deciared unconstitutional by a ruling of the Supreme Constitutional Court handed down in accordance with the prescribed procedure. Such ruling shall be binding on all the authorities of the State.

257. As already indicated in part I hereof, the rights and freedoms recognized in the Covenant have been incorporated into the Egyptian Constitution in the context of the guarantees that must be afforded by the State. They therefore represent constitutional rules which enjoy protection against legislative encroachment. As we have already explained, any restrictions placed on the enjoyment of these rights must be based on impartial and objective legal principles and apply to all. In addition, these restrictions must be applied in a manner consistent with the judgements of the Supreme Constitutional Court, and thus with due regard for the concept of democracy and prevailing standards in democratic systems. In other words, the legislature cannot impose on the enjoyment of these rights any restriction which falls outside the framework established by the Supreme Constitutional Court; otherwise the pertinent law shall be regarded as unconstitutional.

258. In addition to the above, these rights enjoy full legal protection, as was explained in sections 2 and 3 of part I of the present report. Such protection includes the special guarantees which are provided for general rights and freedoms under the Egyptian Constitution, namely that any violation thereof is regarded as an offence in respect of which civil or criminal proceedings are not statute-barred and the State guarantees compensation (article 57 of the Constitution). This in itself represents an important safeguard ensuring that the legislature enacts legislation inconformity with the loftiest constitutional principles and rules laid down by Egyptian law and including the rights and freedoms set forth in the relevant international instruments.

259. The judicial authority also interprets and applies the provisions of the law in a manner consistent with these same constitutional principles and rules. It is also worth recalling that the Supreme Constitutional Court has competence for hearing cases involving disputes over textual interpretation and, upon application, for issuing rulings thereon which are binding on all State authorities. The Court also ensures compliance with the spirit and letter of the laws establishing such rights and freedoms in a manner consistent with the prevailing standards in democratic systems.

260. In addition to the foregoing, the Constitution stipulates that the rule of law is the basis of government in the State (art. 64), that the State is subject to the law and that the independence and immunity of the judiciary are fundamental guarantees of the protection of rights and freedoms (art. 65). The State is obviously under an obligation to implement the legislative enactments promulgated by the elected legislative authority, which represents the people and, in turn, must abide by the constitutional rules, including those that regulate or place limits on the manner and means of enjoyment of those rights.

261. In its ruling handed down in Case No. 22, judicial year 8, session of 5 January 1992 the Supreme Constitutional Court clearly defined the conceptual framework and theoretical basis for the enjoyment of the fundamental rights and freedoms recognized in the Constitution in a State committed to the rule of law. According to that ruling:

> "With regard to the rights and fundamental freedoms of citizens, the substance of the legal rule that prevails in, and is observed by, a State committed to the rule of law is determined in the light of the standards to which democratic States are consistently committed in the social sphere. Whenever such standards are routinely applied, a State committed to the rule of law cannot reduce its protection of the rights and freedoms of its citizens below the minimum of the general expectations in democratic States, nor can it subject their enjoyment or exercise to restrictions that would be fundamentally inconsistent with those customarily applied in democratic systems; in fact, the State's subjection to the law is defined in the light of the democratic concept that its legislation should not infringe rights, the recognition of which in democratic States, is a prerequisite for the establishment of a State governed by the rule of law and also a fundamental guarantee of the full protection of human rights and personal dignity."

262. From the above, it is clearly evident that the substance and essence of the principles and criteria adopted and upheld by the Supreme Constitutional Court in this regard are consistent with the provisions of article 5 of the Covenant forming the subject of this report. In fact, they have been a decisive factor in the formulation of the guidelines and yardsticks which the Egyptian legislature must take into consideration, observe and apply in order to ensure that the legislative texts that it promulgates are in conformity with the Constitution.

Article 6

263. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

264. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.

265. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

266. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

267. Sentence of death shall not be imposed for crimes committed by persons below 18 years of age and shall not be carried out on pregnant women.

268. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State party to the present Covenant.

269. The right to life is regarded as the supreme right, on which no encroachment is possible under any circumstances. It is also one of the most important of the rights associated with the human person and forms the basis for all rights and freedoms recognized as belonging to the human person. The right to life is afforded full protection at all times and under all circumstances and any violation thereof is deemed to be a grave criminal offence for which the law prescribes the most severe penalties.

270. Under Egyptian law a sentence of death may be imposed for the most serious crimes, in accordance with the procedures laid down by the Constitution and the law. This penalty can only be carried out pursuant to a final judgement in respect of a crime punishable by sentence of death at the time of its commission.

271. Under Egyptian law the offences punishable by death are those of a grave and serious nature. The penalty is discretionary rather than mandatory for the court and may not be imposed on persons under 18 years of age.

272. The Egyptian Code of Criminal Procedure contains a number of guarantees in respect of the imposition and enforcement of this penalty, as described below:

(a) Felonies, including offences punishable by death, are heard by the Criminal Courts, consisting of justices of the Court of Appeal and presided over by the President of the Court of Appeal, who are among the highest ranking members of the judiciary in the Courts of Appeal (art. 366, CCP);

(b) Since the offences punishable by death are of a grave and serious nature and are characterized as felonies under the system of Egyptian law, and since the law requires that every accused person should be afforded a defence free of charge in respect of such offences, the law requires the court to appoint attorneys to defend the accused at the State's expense (arts. 375 and 376, CCP);

(c) A death sentence can be imposed only by unanimous agreement and after seeking the opinion of the Mufti of the Republic. The sentence may be appealed by applying to the Court of Cassation for a review (art. 381, CCP);

(d) The Department of Public Prosecutions must submit death sentences, handed down in the presence of the accused, to the Court of Cassation for verification of the proper application of the law, even if the convicted person has not lodged an appeal with the Court of Cassation against the sentence (Act No. 57 of 1959, concerning the procedures for appeal to the Court of Cassation (art. 45));

(e) The case file containing the final sentence of death must be submitted to the President of the Republic through the Ministry of Justice, so that he can exercise his right to issue a pardon or commute the sentence (art. 470, CCP);

(f) A death sentence cannot be carried out on official holidays or on the religious holidays stipulated in article 475 of the Code of Criminal Procedure;

(g) A death sentence imposed on a pregnant woman is postponed until after two months after her delivery (art. 476, CCP);

(h) Sentence of death cannot be imposed on persons under 18 years of age (art. 112 of the Children's Act No. 12 of 1996);

(i) The relatives of the convicted person may visit him on the day of the execution of the sentence and help him to perform the religious rites for which his religion provides (art. 472, CCP).

273. The foregoing clearly shows that the Egyptian legislature fully abides by all of the provisions of article 6 of the Covenant, which were already in force in Egypt prior to ratification of the Covenant forming the subject of this report. The existence of a state of public emergency is not viewed as a justification for the infringement of this right. In a situation of emergency the infliction of a sentence of death must be carried out by the Higher State Security (emergency) Courts in accordance with the same guarantees and procedures set forth in the Emergency Act and to which reference was made in the commentary on article 4 of the Covenant.

274. Here below we have provided some statistical data concerning final sentences of death handed down in respect of all kinds of offences punishable by death under Egyptian law, such as the crimes of murder in the first degree, ambush and rape.

Year	Number of cases
1999	25
2000	30

275. It should be pointed out that Egypt has not acceded to the Optional Protocol aiming at the abolition of the death penalty and, pursuant to Act No. 121 of 1951, it has acceded to the Convention on the Prevention and Punishment of the Crime of Genocide, the provisions of which are in force and applicable in Egypt as a law of the country.

Article 7

276. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

277. The Egyptian legal system has recognized torture as a criminal offence since the last century. Under article 42 of the Constitution any person who is arrested or imprisoned or whose freedom is in any way restricted must be treated in a manner conducive to the preservation of his human dignity and no physical or mental harm must be inflicted on him. Any statement by a citizen which is proved to have been made under duress or the threat thereof is deemed null and void.

278. The drafters of the Egyptian Penal Code abide by these constitutional rules by designating all forms of torture, whatever the method used, as a criminal offence and stipulating severe penalties, including the penalty for murder in the first degree, if the victim dies as a result. The offence of torture obtains whether or not the torture leaves marks and however slight or negligible the pain may be. The offence extends to the person who ordered the torture and the author cannot be exempted from punishment on the grounds that he was following orders from a superior officer. The offence obtains, even if the confession extracted from the victim is accurate.

279. Under Egyptian law and in accordance with the provisions of article 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, there can be no justification for authorizing torture, even in time of public emergency.

280. According to the Egyptian Code of Criminal Procedure and the provisions of the Constitution, civil and criminal proceedings arising out of the offence of torture are not statute-barred and the court is required to disregard any statement or evidence which is proved to have been obtained by torture or intimidation.

281. It should be recalled that Egypt acceded to the Convention against Torture pursuant to Presidential Decree No. 154 of 1986, which, in conformity with article 151 of the Constitution, entered into force as a law of the country on 25 July 1986.

282. During its discussion of Egypt's second periodic report, the Committee against Torture expressed its satisfaction with the legislation enacted in Egypt in this domain.

283. Egypt endeavours to combat the offence of torture using all administrative and judicial measures to prevent its occurrence, punish those responsible therefore and compensate the victims. In part III of this report we shall provide some statistical data concerning judicial measures taken in response to complaints of torture.

284. Since torture is designated as a serious offence under Egyptian law, it is the Department of Public Prosecutions, an independent judicial body enjoying judicial immunity, which is required to investigate complaints in that regard. Victims are also entitled to apply to the criminal courts for compensation, should the charges be proved. The State guarantees compensation to victims and safeguards the implementation of legal rules on compensation. In Egypt places of detention and prisons are subject to judicial scrutiny and may be periodically inspected, without prior notice, by the Department of Public Prosecutions as well as the other monitoring agencies of the Ministry of the Interior.

285. It is worth noting that a Bill has been drafted providing for the abrogation of the penalty of flogging as a disciplinary measure against prisoners. It is currently being reviewed by the competent judicial authorities prior to its transmittal to the People's Assembly. The fact that Egypt is also a signatory to the Rome Statute of the International Criminal Court, which, inter alia, characterizes torture as an international crime falling under the Court's jurisdiction, is proof positive of Egypt's unwavering opposition to all forms and manifestations of torture at the domestic and international levels.

286. According to article 43 of the Egyptian Constitution, no medical or scientific experiment may be carried out on any person without his free consent. The perpetration of such an offence is punishable by law and, pursuant to article 25 of the Code of Criminal Procedure, any person with information about such an offence may apply to the Department of Public Prosecutions to file a complaint in connection therewith.

287. With regard to the implementation of the Committee's General Comment 16/7, acts involving the ill-treatment of a citizen by a public official based on an abuse of authority are designated as criminal offences under article 129 of the Penal Code, if the honour of the victim is damaged or physical pain is sustained.

Article 8

288. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

289. No one shall be held in servitude.

290. No one shall be required to perform forced or compulsory labour.

291. Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court.

292. For the purpose of this paragraph the term "forced or compulsory labour" shall not include:

(a) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;

(b) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

(c) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;

(d) Any work or service which forms part of normal civil obligations.

Paragraphs 1 and 2

293. At the beginning of the twentieth century, Egypt acceded to all international instruments concerning the abolition of forced labour, slavery, the slave trade and the exploitation of the prostitution of others, all such instruments having been incorporated into the provisions and measures stipulated in prevailing Egyptian law.

294. In accordance with the aforementioned instruments, successive Egyptian Constitutions, including the Permanent Constitution of 1971, have provided for the abolition of forced labour and slavery and the recognition of individual legal capacity as rights allowing neither of derogation or encroachment. According to article 13 of the Constitution, it is not permissible to impose compulsory work on citizens except as prescribed by law for the discharge of a public service in return for fair remuneration.

295. Evidence that the Egyptian legislature abides by the provisions of the Constitution and of the relevant international instruments in force to which Egypt has acceded can be found by examining the details of the Civil Code that was proclaimed pursuant to Act No. 131 of 1948, as follows.

296. Human personality begins at the moment of birth and ends at death. The rights of the unborn child shall be determined in accordance with the law (art. 29).

297. Every person must have a name and a surname (art. 38).

298. No person may renounce his legal capacity, nor is it permissible to derogate from any of the principles pertaining thereto (art. 48).

299. No one has the right to renounce his personal liberty (art. 49).

300. The law affords protection against the use of another person's name without justification or the unlawful misappropriation of such name. Any person who suffers injury as a result thereof has the right to seek recourse and to claim compensation.

301. This means that slavery is proscribed under Egyptian law and, consequently, there can be no derogation from the principles of legal capacity under general law.

Paragraph 3

302. In conformity with the provisions of the Constitution prohibiting slavery and forced labour, Egypt's Penal Code characterizes as criminal offences a number of acts that are injurious to the dignity and legal personality of the human person or that are connected with forced labour, exploitation, torture and inhuman treatment, as explained here below:

(a) It is a criminal offence for a public official to use forced labour to perform work for any body or institution that is public or is considered as such, or to withhold the wages of labourers without valid reason. This also applies if the offender is not a public official. Any public official guilty of such an offence is liable to life in prison at hard labour or short-term hard labour and removal from office (art. 117);

(b) It is a criminal offence for a public official to impose on a convicted person a penalty which is more severe than that prescribed by law or a different penalty from that handed down by the court. The penalty for such an offence is a term of imprisonment (art. 127);

(c) It is a criminal offence to force persons to perform work in circumstances other than those in which such is permitted by law or to use persons for work other than that for which they have been mobilized by law. Any public official found guilty of such an offence faces a term of imprisonment, removal from office and the restitution of wages owed (art. 131);

(d) According to article 375 of the Code, it is a criminal offence to use force, violence, threats, intimidation or illicit means to obstruct or attempt to obstruct any of the following rights:

(i) The right of others to work;

(ii) The right of others to employ or refrain from employing any person;

(iii) The right of others to participate or refrain from participating in an association or associations.

303. The provisions of this article apply even if such methods are used against the spouse or children of the person concerned:

(a) Article 375 bis also stipulates the penalties to be imposed on any person who, directly or indirectly, uses force, the threat of violence or the threat of the use of force against an aggrieved party, his spouse or children for the purpose of intimidation, in a manner that undermines his security, peace and serenity, places his life or safety in jeopardy, causes damage to any of his property or assets, or detracts from his personal freedom, dignity, good name or free will.

304. The same article stipulates that in the assessment of the penalty the following circumstances are considered as aggravating factors: offences involving recidivism, the use of weapons or instruments, victims who are female or minors under the age of 18, the use of ambush or the crime of murder.

305. It is worth noting that Egypt acceded to the Convention on the Elimination of All Forms of Discrimination against Women by Presidential Decree No. 434 of 1981, which was published in the Official Gazette, No. 51 of 1981. Egypt has also acceded to the Convention against Torture, as we explained earlier in our commentary on article 7, in this part of the report.

306. In regard to the enforcement of the penalty of hard labour under the Penal Code, the Prisons Act No. 396 of 1956 stipulates that it is for the Minister of the Interior, in accord with the Minister of Justice, to issue a decree concerning the forms of hard labour to be imposed either when ratifying a verdict involving such a penalty or the penalties of detention or imprisonment. The Act makes it illegal to impose hard labour on weekly days of rest (Friday) and official and religious holidays.

307. Where prisoners are used for public works in places far removed from the prison, they may be housed at night in temporary camps or prisons that pay due regard to all of the rules established in the prison in terms of food, health and disciplinary measures. Prisoners in preventive detention or on remand cannot be used for work without their consent.

308. Act No. 73 of 1959 defines the type of work which may be assigned to persons sentenced to hard labour as: the reclamation of uncultivated land, agricultural work involving loading, unloading, fencing and digging; manual work; the building and construction of laundries, bakeries, storage and sanitary facilities; assistance with literacy programmes and work in dispensaries, where other types of work cannot easily be found. It should be pointed out, that after they have served one quarter of their sentence, prisoners are entitled to receive wages for their work in accordance with pre-determined wage bands. They are also entitled to spend their wages on such necessities as are authorized for sale in prisons as well as on assistance for their families. The remainder is given to the prisoner upon release from prison. The Prisons Act was enacted following the adoption of the United Nations Standard Minimum Rules for the Treatment of Prisoners and in conformity with the principles enunciated therein.

309. With regard to military and national service, Act No. 127 of 1980 establishes compulsory military service for any male who has reached the age of 18, while national service is required both of males and females. Military service is for a period of three years. It is reduced to two years for persons holding intermediate qualifications and one year for those with a higher education. National service is for one year both for males and females. It is regulated pursuant to Act No. 76 of 1973, concerning public service by young persons, which stipulates the standard of education required (a general secondary education or its equivalent, a post-intermediate education or a higher education). The Act specifies the work that may be assigned to young persons, namely the promotion of literacy, nursing, family planning, agricultural advice and other social service-oriented activities. The Act stipulates that an assignment must be for the period of one year and in exchange for a monthly stipend.

Article 9

310. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

311. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

312. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

313. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

314. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

315. The Egyptian legal system safeguards the enjoyment by individuals of their liberty and security of person and guarantees that no one may be arrested in circumstances other than those prescribed by law. We shall review the guarantees provided under the Egyptian legal system by first examining the provisions of the Constitution, then the provisions of the relevant laws and, finally, some judicial applications.

A. Constitutional provisions that safeguard liberty of person

316. The Egyptian Constitution provides for the right to liberty and security of person and stipulates that individual freedom is an inviolable right that is protected by law. It also specifies the cases in which a person may be deprived of his liberty as well as the guarantees that ensure the proper application of the law when a person is thus deprived. The details are as follows:

(a) Individual freedom is a natural and inviolable right that shall be protected. Except in cases of *flagrante delicto*, no one shall be arrested, searched, detained or subjected to any restriction of freedom of movement unless, in the interests of an investigation or the maintenance of public security, such is required under the terms of an order issued by the competent judge or the Department of Public Prosecutions (art. 41);

(b) Any citizen who is arrested, detained or whose liberty is restricted in any way must be treated in a manner conducive to the preservation of his human dignity and must not be harmed physically or mentally. He may not be detained in a place other than those prescribed under the Prisons Act (art. 42);

(c) Homes are inviolable and may not be entered or searched without a substantiated judicial order issued in accordance with the terms of the law (art. 44);

(d) Any person who is arrested or detained shall be informed immediately of the reasons for his arrest or detention. He shall have the right to communicate with any person whom he wishes to advise of what has happened or from whom he may wish to seek assistance in the manner prescribed by law. He must be promptly notified of the charges brought against him and he or any third party may appeal in court against the measure taken to restrict his personal liberty (art. 71).

B. Legislative provisions guaranteeing the right to liberty of person

The Penal Code and liberty of person

317. In the framework of these constitutional provisions the drafters of the Egyptian Penal Code, in article 280 thereof, stipulate that it is a criminal offence to arrest or detain any person without an order from the competent authorities or in circumstances other than those in which such is permitted by law. The penalty for this offence is imprisonment or a fine.

The Code of Criminal Procedure and guarantees of liberty of person

318. With a view to ensuring that individuals and public officials comply with constitutional and legal provisions concerning liberty of person when exercising the right to make an arrest, the Code of Criminal Procedure promulgated by Act No. 150 of 1950 spells out the rights of persons arrested or taken into custody in the following terms.

319. Any person who is aware that a prisoner is being detained unlawfully or in a non-designated prison must notify the members of the Department of Public Prosecutions, which shall immediately go to the place where the prisoner is being held and carry out the requisite investigation (art. 43, CCP).

320. No person can be arrested or detained except by order of the competent authorities vested with legal competence in that respect. Any person arrested or detained must be treated in a manner conducive to the preservation of his human dignity and must not be harmed physically or mentally (art. 40, CCP).

321. No person may be detained other than in designated prisons. It is not permissible for the governor of any prison to admit a person other than under the terms of an order signed by the competent authority nor may he detain a person after the term specified in the order has elapsed (art. 41, CCP).

322. Prisoners are entitled to submit complaints orally or in writing to the prison governor, who must accept the complaint and immediately forward it to the Department of Public Prosecutions, after due note has been made in the register provided (art. 43, CCP).

323. Any member of the Department of Public Prosecutions and any president or vice-president of a court of first instance or appeal is entitled to visit the prison situated within his area of jurisdiction in order to ascertain that no one is being detained illegally. They also have the right to inspect the prison registers, arrest warrants and confinement orders and to contact any prisoners with a view to hearing their complaints (art. 42, CCP).

324. Anyone who is arrested or held in precautionary detention must be informed immediately of the reasons for his arrest or detention. He has the right to communicate with any person whom he wishes to notify of what has happened and is entitled to avail himself of the services of a lawyer (art. 139, CCP).

325. In cases of *flagrante delicto* or cases involving offences punishable by more than three months' imprisonment, criminal investigation officers may arrest a suspect found at the scene of a crime. In such cases, they must immediately take a statement from the arrested suspect. If the latter is unable to establish his innocence, he must be brought before the competent office of public prosecution within 24 hours. The Department of Public Prosecutions must question the suspect within the same 24 hours and subsequently order his remand in custody or release (arts. 34 and 36, CCP).

326. A detention order issued by the Department of Public Prosecutions is valid only for a period of four days from the date of the arrest of the suspect. If the Department wishes to extend the period of precautionary detention, it must submit the case file to the judge of summary jurisdiction, who issues an appropriate order after listening to the statements of the suspect and the Department of Public Prosecutions. The precautionary detention may be extended for one or more successive periods, provided that the total period of detention does not exceed 45 days. If the investigation has not been completed, the period of precautionary detention may be extended by the Misdemeanours Court of Appeal, meeting in chambers, after hearing the statements of the suspect and the Department of Public Prosecutions. The period of detention may be extended for successive periods of 45 days, up to a maximum of 6 months. Failing such extension, the suspect must be released unless he has been notified, before the expiration of his period of detention, that his case is to be referred to the competent court. In all cases, the Department of Public Prosecutions, the judge of summary jurisdiction and the Misdemeanours Court of Appeal may order the release of the suspect, upon or without bail, at any time (arts. 201, 202, 203, 204 and 205, CCP).

327. Certain offences are not time-barred from public prosecution. The use of torture with a view to the extraction of a confession and the infliction of a punishment more severe than that to which the person concerned has been sentenced are both designated as criminal offences under articles 126 and 127 of the Penal Code.

328. Except in cases of *flagrante delicto* or where there is a compelling reason to believe that evidence may be lost, the examining magistrate in criminal cases cannot interrogate a suspect or confront him with other suspects until the suspect's lawyer, if he has one, has been invited to be present. The lawyer must be permitted to acquaint himself with the facts of the case on the day preceding the interrogation and the accused must under no circumstances be separated from his legal counsel during the examination (arts. 124 and 125, CCP).

329. Trials must be held in public, unless the court decides to hold some or all of its hearings in camera in the interests of public order or morality (art. 268, CCP).

330. Persons accused of offences punishable by imprisonment must appear in person. In cases involving misdemeanours and infractions, they may appoint a representative to present their defence, without prejudice to the court's right to order their appearance in person (art. 237, CCP).

331. The trial begins with the presentation of the indictment against the accused, after which the court hears statements from witnesses for the prosecution, witnesses for the defence and experts, if any. The accused and the opposing parties have the right to cross-examine witnesses, to recall witnesses for the defence or to call other witnesses for the defence. The court then hears the final pleas of the opposing parties, the accused being the last to speak (arts. 271, 272, 273, 274, 275 and 293, CCP).

332. Any statement by the accused or witnesses which, in the court's opinion, has been made under coercion or threat is considered null and void. Ascendants and descendants of the accused, as well as relatives by blood and marriage to the second degree and his spouse, even after the dissolution of the marriage, may decline to testify against him except in cases involving offences committed against, or reported by, any of them (arts. 286 and 302, CCP).

333. In cases involving felonies, the lawyer must appear with the accused, regardless of whether he was appointed by the examining magistrate, the Department of Public Prosecutions, the President of the Criminal Court or the accused himself. A lawyer who is absent, without a legitimate excuse, and fails to designate a representative is liable to a fine, without prejudice to any disciplinary proceedings (art. 375, CCP).

334. The language of the courts is Arabic. The statements of any opposing parties or witnesses who are not familiar with that language are heard through a sworn interpreter. Interpreters, who are regarded as judicial assistants, must be available in sufficient numbers at the Court of Cassation, the courts of appeal and the courts of first instance. They must hold specialized academic degrees in a foreign language and must swear an oath to perform their duties in an honest and impartial manner before being allowed to work at public hearings (articles 19, 135, 156, 157 and 158 of the Judicial Authority Act No. 46 of 1972).

Important note

335. It is important to note that the Department of Public Prosecutions is a judicial body in the Egyptian legal system and, under the provisions of the Judicial Authority Act No. 46 of 1972, its members cannot be dismissed.

C. The rights of persons in detention or prison under the Egyptian Emergency Act

336. Egyptian law empowers the President of the Republic to proclaim a state of emergency in order to avert danger threatening the country and to preserve public order, subject to the conditions specified in Act No. 126 of 1958, as amended by Acts No. 37 of 1972, No. 164 of 1981, and No. 50 of 1982, to which detailed reference was made in this part of the report in the commentary on article 4 of the Covenant.

337. The Act specifies the rights of persons who suffer detriment as a result of arrest and detention measures taken pursuant to article 3 bis thereof. These rights are explained in detail here below:

(a) Anyone who is arrested or held in precautionary detention must be informed immediately of the reasons for his arrest or detention. He has the right to communicate with any person whom he wishes to notify of what has happened and is entitled to avail himself of the services of a lawyer (art. 139, CCP);

(b) The detainee, and any other persons concerned, have the right to lodge a complaint with the Higher State Security Court if he is not released within 30 days from the date of issue of the arrest warrant;

(c) The court must hand down a substantiated decision on the complaint within 15 days from the date of its submission, failing which the detainee must be released immediately;

(d) Any person whose complaint has been rejected has the right to submit a new complaint 30 days after the rejection of his previous complaint;

(e) The Minister of the Interior has the right to appeal against a release order issued by the court. Such appeal must be heard, within 15 days of its submission, by another division whose decision is final (article 3 bis added to Act No. 60 of 1968, as amended by Act No. 37 of 1972, Act No. 164 of 1981 and Act No. 50 of 1982).

338. The above-mentioned provisions show that the Egyptian legislature abides by the constitutional and legal guarantees pertaining to detention, the persons authorized therefor, the duration thereof and the requirement to refer the case file immediately and regularly to the judicial authorities, even if not requested by the accused person, in order to review the reasons for and legality of the detention.

339. It should be pointed out that magistrates and members of the Department of Public Prosecutions may be sued for dishonesty, deception, breach of confidence, grave professional incompetence or failure to render a verdict. If the magistrate fails to deposit a copy of the verdict at the time when he pronounces it, such verdict is rendered null and void. If an action is upheld, the court must order the magistrate or the member of the Department of Public Prosecutions being sued to pay compensation and costs and must declare his decisions to be null and void (articles 494-499 of the Proceedings at Law Act).

340. Any person who suffers damage as a result of arbitrary detention or imprisonment is entitled to apply to the competent judicial authorities to request that the offending party be questioned and compensation be paid under the circumstances established by law, since, according to article 280 of the Penal Code, it is a criminal offence to arrest or detain any person without an order issued by the competent authorities and in circumstances not authorized by law.

D. Circumstances in which a person may be deprived of Liberty in the context of the esteemed Committee's General Comment 16/8

341. Egyptian law regulates the circumstances in which a person may be deprived of liberty in cases involving quarantine, mental illness and drug addiction as follows.

Act No. 44 of 1955, concerning quarantine

342. The Act regulates the conditions and measures required for placement in quarantine, the diseases to which it applies, the time periods involved and the circumstances and spheres in which such measures may be taken. All of these measures are designed to isolate sufferers, ensure their well-being, provide them with treatment and prevent their having any contact with others in order to avert the spread of infectious and contagious diseases.

Act No. 141 of 1944, concerning the detention of persons suffering from mental illness

343. The Act stipulates the conditions and circumstances under which persons suffering from mental illness may be detained, as follows:

(a) The nature of the illness must be such as to pose a threat to public safety and order or to place the safety of the sufferer or others in jeopardy;

(b) The place of detention must be a specially designated hospital or, subject to special permission, a residential home;

(c) The request must be made by a physician, the Department of Public Prosecutions or the police, and is subject to medical review;

(d) The patient may be detained on the basis of a request from a relative by blood or marriage which is supported by two certificates issued by two hospital physicians;

(e) The patient may not remain in confinement without the approval of the monitoring board. Such approval must be given within the four days following the end of the third day of confinement. The board must render a decision within 30 days ordering the patient's confinement or release. A patient may not be confined for a period of more than one year, such period being renewable;

(f) The board may order the release or temporary release of the patient in the circumstances prescribed by law.

The Narcotics Act promulgated by Act No. 182 of 1960

344. The Narcotics Act, as amended by Act No. 122 of 1989, stipulates the rules governing the admission of persons for treatment of drug addiction or drug use, as detailed below:

(a) An addict may seek treatment on his own initiative from a clinic or therapy centre that has been legally established for that purpose. Depending on his or her condition, the person may be admitted to a clinic, or required to attend a rehabilitation centre. If, upon admission to the clinic or attendance at such centre, the person hands over all the narcotic materials in his or her possession to the competent party, no public proceedings shall be taken against him;

(b) It is permissible for the spouse or one of the ascendants or offspring of the drug addict or user to submit an application for treatment of the patient to the legally designated special committee. If the patient refuses to accept the committee's decision, the matter may be referred to the Department of Public Prosecutions, which may in turn refer it to the Criminal Court for the issuance of a confinement order or an order requiring the patient to attend a rehabilitation centre. Any patient who is confined under medical supervision has the right to appeal to the competent court, against such confinement.

Article 10

345. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

346. Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status of unconvicted persons.

347. Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

348. The penitentiary system shall comprise treatment of prisoners, the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

349. The Egyptian Constitution devotes attention to the rights of individuals deprived of their liberty in a manner consistent with the provisions of the law. According to article 42 of the Constitution, any person who is arrested or imprisoned or whose freedom is restricted in any way must be treated in a manner conducive to the preservation of his human dignity. He must not suffer any physical or mental harm, nor may he be detained or imprisoned in a place other than those designated under the provisions of the Prisons Act.

350. Following the promulgation of the Egyptian Constitution of 1971, the legislature introduced an amendment to article 40 of the Code of Criminal Procedure incorporating this constitutional right and stipulating that no person can be arrested or detained except by order of the authorities vested with legal competence in that respect. Likewise, it stipulates that any person arrested or detained must be treated in a manner conducive to the preservation of his human dignity and must not be harmed physically or mentally.

351. The Penal Code also specifies the penalties to be applied in the event of the use, by a public official acting in his capacity as such, of violence incompatible with human dignity or likely to cause physical pain (art. 129).

352. Act No. 396 of 1956, concerning the regulation of prisons, specifies the rules to be applied to prisons and the rights and guarantees afforded to prisoners and prison staff pursuant thereto. In this connection, some of the most important of its provisions are summarized below.

353. Any person who is detained, arrested, deprived of his liberty or placed in confinement shall be admitted to one of the prisons specified in the preceding article or such place as is designated pursuant to a decree issued by the Minister of the Interior to which all of the provisions of the present Act apply (article 1, article 1 bis and the final article added to Act No. 57 of 1968).

354. No person may be admitted except under the terms of a written order legally authorized by the competent authorities, nor may he or she be detained beyond the term specified in such order (art. 5).

355. Prisoners shall be given periodic health check-ups and every prison shall have a resident medical officer (art. 33).

356. Prisoners may be punished by means of solitary confinement for a period not exceeding 15 days (art. 43 (5)).

357. The governor of the prison shall accept any complaint submitted orally or in writing by a prisoner and forward it to the Department of Public Prosecutions or the competent agency after due note has been made in the complaints book (art. 80).

358. It is not permissible for any public official to contact a prisoner being held in prison in precautionary detention without the written permission of the Department of Public Prosecutions. Where such permission is given, the name of the authorized person, the time of the interview, and the date and scope of the authorization shall be recorded in the prison day book.

359. Prisons are subject to judicial inspection. The Public Prosecutor and his deputies are entitled to visit any of the prisons in their jurisdiction at any time in order to ascertain that the living conditions of prisoners and others are consistent with the obligations and procedures stipulated by the law and ordinances and to identify and address any failings which the inspection may discover. They must accept complaints from the prisoners and examine records and judicial files in order to ensure their proper application (art. 85).

360. Examining magistrates and presidents and vice-presidents of appeal courts and courts of first instance are entitled to visit prisons at any time. The prison management must forward their comments to the General Director of Prisons (art. 86).

361. Any public official who admits or orders the admission of a person deprived of his liberty to a place other than a prison or institution designated under articles 1 and 1 bis shall be liable to punishment (article 91 bis, paragraph 2 added to Act No. 57 of 1968).

362. As the foregoing makes clear, the provisions and rules set forth in the Prisons Act constitute important guarantees of judicial control and monitoring of any person deprived of his liberty, ensuring that he or she is afforded the rights, protection and treatment prescribed by law and the protection required by virtue of his incarceration. A number of salient facts in this connection are highlighted below.

363. Prisons and places of detention are designated exclusively under the provisions of the law and the terms of a decree issued by the Minister of the Interior. No person may be detained or imprisoned in any other place, nor may he or she be treated in a manner that is not conducive to the preservation of his dignity and honour or subjected to physical or mental harm.

364. Places of detention may be subjected to judicial inspection at any time in order to ascertain that due regard is being paid to all of the rules concerning the treatment and rights of prisoners that are laid down in ordinances and laws.

365. In addition, it is important to note that article 43 of the Code of Criminal Procedure makes it the responsibility of every person to inform the Department of Public Prosecutions as soon as he or she receives information about a person who is being detained unlawfully or in a non-designated place of imprisonment.

366. The same article outlines the measures that must be taken by the Department of Public Prosecutions in response thereto, namely that it must go immediately to the place in which the prisoner is being unlawfully held, conduct the requisite investigation and order the release of the person without delay.

367. Prisoners who have been convicted and detainees and persons held in precautionary detention are governed by important principles connected, in the first instance, with the principle that the accused is presumed innocent until proved guilty and that precautionary detention is a measure for which grounds must be provided through the examination process. This measure does not constitute the imposition of a penalty. The Prisons Act devotes a special chapter to persons being held in precautionary detention, the provisions of which are detailed below.

368. Persons held in precautionary detention must be confined in premises separate from those in which prisoners are incarcerated and they have the right to have their own rooms in exchange for a moderate payment (art. 14).

369. Persons held in precautionary detention shall be entitled to wear their own clothes and to have food brought to them from outside the prison (arts. 15 and 16).

370. The Act empowers the General Director of Prisons, subject to the approval of the Attorney-General, to grant a person sentenced to ordinary imprisonment all or part of the rights accorded to persons held in precautionary detention (art. 17).

371. Persons held in precautionary detention are entitled to send and receive correspondence at any time and to receive one visit each week.

372. The Explanatory Note appended to the Prisons Act describes the philosophy behind the penalty of deprivation of liberty as being one of the most important means of punishment designed to reform the person. The prison reform movement was given tangible expression at the international level in the 1955 United Nations Standard Minimum Rules for the Treatment of Prisoners, which the legislature used as a guide when drafting the Act. The Explanatory Note appended defines the aims of the Act as follows:

(a) To respect the personality of the convicted person, instil obedience, encourage good behaviour and the avoidance of wrongdoing as well as the use of the time spent in prison in a manner that is beneficial both to the prisoner and society;

(b) To inflict punishment that is appropriate to each offender and his individual circumstances;

(c) To progressively prepare the prisoner, over a long period of time prior to his release, to become a useful member of society.

373. The Act applies these principles to the regulation of prison and prisoner reform in accordance with the minimum standard rules for the treatment of prisoners adapted by the international community.

374. With regard to juvenile prisoners, the legislature, pursuant to the Children's Act No. 12 of 1996, has stipulated a special system of punishment which provides that the penalty of imprisonment may only be applied in respect of criminal offences perpetrated by juveniles aged between 15 and 18 years. Penalties involving deprivation of liberty of minors are served in special penal institutions and treatment is afforded to them in accordance with their age. Sentences of death, short-term hard labour or hard labour for life cannot be imposed on children in this age group. Indeed, the legislature has replaced this penalty with a term of detention or imprisonment (arts. 111, 112 and 141).

375. In the commentary on article 24 of the Covenant mention shall be made of the treatment of minors under criminal law, while section 5, part III, of the report includes statistical indicators pertaining to prison development programmes.

Article 11

No one shall be imprisoned on the ground of inability to fulfil a contractual obligation

376. No person may be deprived of their liberty of person except in the event of a breach of criminal law or in cases pertaining to mental health, contagious diseases or in the situations of danger stipulated in the Emergency Act, as was explained in detail in the commentary on articles 4 and 9 in this part of the report.

377. Neither poverty nor inability to fulfil a contractual obligation is considered as a justification for imprisonment under the terms of Egyptian law. The Egyptian Civil Code recognizes a number of circumstances that govern such cases, as follows:

(a) According to article 147 of the Civil Code, in the event of an unforeseeable public emergency rendering the fulfilment of a contractual obligation by the debtor so onerous as to threaten him with the infliction of heavy losses, a judge may defer the obligation to pay for a reasonable period of time. The two parties may not agree to challenge such a decision, since it is a matter of public law which cannot be disputed;

(b) Under article 157 of the Civil Code, a magistrate may, depending on the circumstances, allow the debtor to defer payment. He also may refuse to annul the contract, even if the part thereof not honoured by the debtor is of small importance compared with the obligation as a whole;

(c) The Civil Code stipulates the procedure for declaring the debtor bankrupt, if his assets are insufficient to discharge his outstanding debts. Bankruptcy must be declared under the terms of a court order and the person declaring bankruptcy shall be liable to the penalties

prescribed for the dispersal of assets, if his insolvency causes injury to his creditors, or he hides certain of his assets or fabricates fictitious debts with a view to inflicting harm on such creditors (arts. 249-264 of the Civil Code);

(d) Act No. 1 of 2000, regulating certain aspects of judicial procedure in matters of personal status, provides, in its article 76 bis, that any person who is unable to comply with the terms of a final court judgement ordering him to pay costs is entitled to plead his case before the courts. If the latter is able to prove that he can comply with the terms of the order, he shall be sentenced to a maximum term of 30 days' imprisonment.

378. All of the above provisions show that the regulations which have been promulgated in connection with imprisonment concern either dispersal of assets or failure to pay in spite of evidence of ability to do so and these are consistent with the provisions of this particular article of the Covenant.

Article 12

379. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

380. Everyone shall be free to leave any country, including his own.

381. The above-mentioned rights shall not be subject to any restrictions except those which are provided by the law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.

382. No one shall be arbitrarily deprived of the right to enter his own country.

383. Articles 50, 51, 52 and 53 of the Egyptian Constitution regulate the above freedoms in the following manner:

(a) No citizen may be prohibited from residing, or forced to reside, in a specific place, except as provided by law (art. 50);

(b) No citizen shall be deported from the country or prevented from returning thereto (art. 51);

(c) Citizens have the right to emigrate temporarily or permanently. This right, as well as the procedures and conditions for emigration, shall be regulated by law (art. 52);

(d) The State shall grant the right of political asylum to any foreigner who has been persecuted for his defence of the interests of peoples, human rights, peace or justice. The extradition of political refugees is prohibited.

384. The following section reviews the Egyptian legislation regulating these constitutional rights on behalf of Egyptians and foreigners and the measures adopted in respect of freedom of residence and movement.

As regards Egyptians

The Passport Act No. 97 of 1959

385. The Passport Act gives every Egyptian the right to obtain a passport to travel from and return to the country. Only the judicial and public security authorities are entitled to prevent a person from travelling. The Act guarantees the right to appeal to the administrative courts against any decisions taken in this regard.

The Emigration Act No. 111 of 1983

386. The Emigration Act stipulates the procedures for permanent or temporary emigration by individuals or groups. According to article 1 thereof, a person does not forfeit his constitutional or legal rights by virtue of emigration, insofar as the emigrant remains an Egyptian for as long as he or she retains Egyptian nationality. The Act also stipulates that the State is responsible for protecting Egyptians abroad using all means and for granting emigrants certain types of special privileges in connection with investment projects.

As regards foreigners

Act No. 89 of 1960, concerning the entry and residence of foreigners

387. This Act lays down the procedures for granting a residence permit and the circumstances and procedures under which it may be renewed. It also stipulates that it is not permissible to deport a foreigner who is legally residing in the country in a private capacity except under the terms of a decree of the Minister of the Interior and where the foreigner's presence poses a threat to the country's internal security or to public health, morals or peace. The foreigner may be deported after the matter has been submitted to the committee competent for examining deportation orders.

Judicial applications

388. The Supreme Constitutional Court ruled that articles 8 and 11 of the Passport Act No. 97 of 1957 were unconstitutional, insofar as they vested the Minister of the Interior with the authority to determine the conditions for the granting, renewal, withdrawal or cancellation of passports for specific reasons. The Court ruled that personal freedom means having the right to obtain a passport, since freedom of movement is a public freedom which may not be restricted without justification and the Constitution vests the legislature with authority to determine the conditions under which such a document may be issued (Appeal No. 243, judicial year 21, session of 4 November 2000, published in the Official Gazette No. 46 of 16 November 2000).

389. The Supreme Constitutional Court explained its opinion on this subject by stipulating the reasons for the afore-mentioned ruling as being that citizens are entitled to obtain and bear a passport not only by virtue of their being Egyptians within the country and abroad, but also, more importantly, because the safeguards of liberty of person provided for under article 41 of the Constitution are guarantees from which no derogation is permitted. Freedom of movement therefore falls within the scope of public freedoms on which no restrictions may be imposed other than by law. These rights cannot be regulated other than pursuant to laws enacted by the legislative authorities in accordance with the limits set for the regulation thereof and in a manner consistent with the standards prevailing in democratic States.

Measures concerning freedom of residence and movement

390. Egyptian law defines certain measures that may be taken in respect of freedom of residence and movement, including the following:

(a) A person may be placed under police control by virtue of having been sentenced to hard labour or imprisonment for offences against State security, counterfeiting, death, murder and sabotage (article 28 of the Penal Code);

(b) A prisoner may be conditionally discharged after serving three-quarters of a sentence and having exhibited responsible conduct while in prison (article 57 of the Prison Act No. 356 of 1956);

(c) A person's freedom of residence maybe be restricted or he may be prohibited from visiting or returning to his country of origin or from exercising a profession or trade, on account of his previous criminal record or the fact of having been charged on serious counts on a number of occasions with an offence under the Narcotics Act (article 48 bis of the Narcotics Act No. 182 of 1960). Such measures can only be taken pursuant to a court order);

(d) A drug addict or drug user may be confined or required to attend a rehabilitation centre under the terms of a court order (article 37 bis of the Narcotics Act No. 182 of 1960);

(e) Measures may be taken involving the imposition of specific obligations, including injunctions prohibiting a person from frequenting certain types of places or ordering him to attend counselling sessions or to appear before certain persons or organizations, pursuant to the provisions of the Children's Act No. 12 of 1996 (arts. 101 and 104).

391. These measures that are concerned with the restrictions that may be imposed on freedom of residence and movement are clearly driven by the need to defend the public interest and are consistent with the provisions of the law and with relevant judicial rulings handed down in this regard. They are also consistent with the provisions of the Egyptian Constitution as well as article 12 of the Covenant.

Article 13

392. An alien unlawfully in the territory of a State party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with the law and shall, except where compelling reasons of national security otherwise required, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

393. As already explained in the commentary on article 12 of the Covenant here above, Act No. 89 of 1960, concerning the entry and residence of aliens, regulates the procedures and conditions for the admission of aliens and the circumstances in which they may obtain entry visas. It also prescribes the procedures for the registration of residence and the permits required for special, ordinary and temporary residence. Article 41 of the Act lays down the conditions under which an alien may be expelled from the country, as explained in articles 2, 4 and 16 of the same Act.

394. According to article 2 of the Act, any person wishing to enter the country must be in possession of valid travel documents issued by the competent authority. The holder of such documents shall be allowed to return to the country which issued them.

395. Article 4 states that a person must enter the country at a legally established port of entry after his or her passport or corresponding document has been endorsed.

396. Article 16 provides that a foreigner must leave the country once his residence permit has expired.

397. According to article 26 of the Act, it is not permissible to deport a foreigner who is residing in the country in a private capacity unless his presence poses a threat to the security or integrity of the State or to public health or morals. A foreigner may only be deported under the terms of a decree of the Minister of the Interior and after the matter has been reviewed by a committee responsible for deportations comprising the Deputy Minister of the Interior, the directors of the Department of Islamic Law and the Department of Law of the Ministries of the Interior and Foreign Affairs at the Council of State, as well as the directors of the Department of Public Security, Immigration and Passports and the consular section abroad. Since deportation is an administrative decision, it is possible to appeal against a detention order to the Council of State. The above-mentioned provisions point to the fact that the Egyptian legislature abides by the provisions of the Covenant pertaining to deportation and that it provides the necessary guarantees in terms of the authority competent to issue deportation orders and the right to challenge them before the courts.

398. It should be noted that requests submitted by States for the extradition of foreigners are reviewed in accordance with the terms laid down in the relevant international, regional and bilateral agreements, taking due account of the restrictions and guarantees set forth therein and the rulings handed down by the competent judicial authority.

399. By virtue of the commitment stipulated in the provisions of article 53 of the Constitution, Egypt is obliged to grant the right of political asylum to any foreigner who has been persecuted for his defence of the interests of people, or of human rights, peace or justice.

400. Egypt is a party to the international conventions on refugees and the Regional Convention on Refugees in Africa. As explained above, Egypt is bound by the provisions of those conventions insofar as they are regarded as part of Egyptian law under the terms of the Constitution.

401. Infractions concerning illegal residence are handled in coordination with the embassies of the offenders involved and in accordance with applicable procedures and agreements.

Article 14

402. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (*ordre public*) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

403. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to the law.

404. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(c) To be tried without undue delay;

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) Not to be compelled to testify against himself or to confess guilt.

405. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

406. Everyone convicted of a crime shall have the right to have his conviction and sentence reviewed by a higher tribunal according to law.

407. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to the law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

408. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Paragraph 1: Equality before the courts and the right to a fair hearing

409. The Egyptian Constitution stipulates the independence of the judiciary, the right to have recourse to the courts and the guarantees of a fair hearing, as detailed below:

(a) All citizens are equal before the law and in regard to their public rights and duties, without distinction (art. 40);

(b) The rule of law is the basis of government in the State (art. 64);

(c) The State is subject to the law. The independence and immunity of the judiciary are fundamental safeguards for the protection of rights and freedoms (art. 65);

(d) The right of all persons to engage in litigation shall be guaranteed and safeguarded and every citizen shall be entitled to resort to his natural judge. The State undertakes to ensure that litigants have access to judicial bodies and that cases are adjudicated rapidly. No act or administrative decision can be legally declared immune to judicial control (art. 68).

410. Articles 165, 166, 168 and 169 of the Constitution stipulate the provisions pertaining to judicial authority, namely that the judicial authority is independent and is exercised by courts of various kinds and levels which pass judgement in accordance with the law. Judges are independent. In their administration of justice, they are subject to no power other than that of the law. No authority has the right to interfere in legal proceedings or judicial affairs. Judges are not subject to dismissal. Their disciplinary accountability is regulated by law. Court hearings must be held in public unless the court decides to hold them in camera out of regard for public order or morality. In all cases, the verdict must be delivered in public.

411. The following legislation has been enacted on the basis of these constitutional provisions and the commitments enshrined therein as regards the regulation by the legislature of judicial bodies in Egypt:

(a) Act No. 48 of 1979, concerning the Supreme Constitutional Court;

(b) Act No. 46 of 1972, concerning judicial authority;

(c) Act. No. 47 of 1972, concerning the Council of State.

412. These Acts guarantee the impartiality and independence of the judiciary, define its areas of jurisdiction, ensure that every person is entitled to have recourse to the law without incurring financial burdens that impede their access thereto and they also stipulate the procedures for providing legal assistance to those who cannot afford it.

413. In that connection, under the Penal Codes that have been enacted since 1883 any form of intercession with a magistrate or a court by an employee in favour or to the detriment of one of the opposing parties by means of an order, request, pleading or recommendation constitutes an offence punishable by imprisonment or a fine (article 120 of the current Penal Code).

414. Pursuant to the same Act, any judge who, as a result of the aforementioned intercession, refrains from adjudicating or hands down a judgement which is found to be unjust is deemed to have perpetrated an offence for which the penalty stipulated under the current Penal Code is a term of imprisonment, a fine and removal from office. Any judge who refrains from adjudicating in different circumstances is liable to a fine and removal from office (articles 121 and 122 of the current Penal Code).

415. The Judicial Authority Act No. 46 of 1972, as amended by Act Nos. 17 of 1976 and 25 of 1984, embodies these fundamental concepts recognized in the Egyptian Constitution and the Basic Principles on the Independence of the Judiciary, as illustrated by the following:

(a) The competence of the courts to adjudicate in all disputes and offences, unless otherwise stipulated by a specific enactment, is defined by law (articles 1-15 of the Act);

(b) Judges cannot be transferred, reassigned or seconded except in the circumstances and the manner prescribed by this Act (article 52 of the Act);

(c) Members of the judiciary and the Department of Public Prosecutions, with the exception of assistant prosecutors, are not subject to dismissal (article 67 of the Act);

(d) The general assemblies formed at each court and consisting of all its members are responsible for allocating and scheduling work, determining the number of divisions and sessions of the court and allocating its members to work in the criminal courts (article 30 of the Act);

(e) The Higher Council of the Judiciary is legally competent to hear all matters relating to the appointment, promotion, transfer, assignment and secondment of members of the judiciary and the Department of Public Prosecutions, as well as other matters concerning them, in the manner prescribed by law. The Council is presided over by the president of the Court of Cassation and includes among its members the president of the Cairo Court of Appeal, the Attorney-General, the two most senior vice-presidents of the Court of Cassation and the two most senior presidents of the other courts of appeal (articles 77 bis (1) and 77 bis (2) of the Act);

(f) Only the civil divisions of the Court of Cassation are competent to hear applications submitted by members of the judiciary and the Department of Public Prosecutions for the annulment of final administrative decisions concerning their affairs. Those divisions are also vested with sole competence to hear applications for compensation and disputes concerning salaries, pensions and allowances (article 83 of the Act);

(g) The disciplinary control of judges is exercised by a special board consisting of the president of the Court of Cassation, the three most senior presidents of the courts of appeal and the three most senior chief justices of the Court of Cassation. The meetings of the board are held in camera and its decisions concerning removal from office require ratification by the President of the Republic, which is published in the Official Gazette (articles 98, 106, 108 and 110 of the Act);

(h) Except in cases of *flagrante delicto*, a judge cannot be arrested or held in precautionary detention unless permission has been obtained from a special committee. In cases of *flagrante delicto*, the matter must be referred within 24 hours to the said committee, which is vested with sole competence to order the continued detention or release of the judge. No investigative action may be taken in criminal matters without the approval of the said committee. Custodial sentences imposed on judges must be served in special institutions (article 96 of the Act).

416. Egypt is unique in granting judicial immunity to the officers of the Department of Public Prosecutions, which is headed by the Attorney-General. Its officers may not be removed from office insofar as the Department of Public Prosecutions is a branch of the judicial authority. Under Egyptian law the Department is thus empowered to conduct investigations and public prosecutions and its officers are entitled to the same immunities as the members of the judiciary. Members of the Department of Public Prosecutions also enjoy the same immunities as judges in respect of their terms of appointment, secondment and retirement, for which the approval of the Higher Council of the Judiciary is required. The policy pursued by the Egyptian legislature in this connection is consistent with the Declaration of Principles on the Independence of the

Judiciary adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985, insofar as the policy views the independence of the members of the Department as a necessary condition for ensuring the independence of the judiciary and a fundamental guarantee of justice. This necessarily implies that officers of the Department of Public Prosecutions must be granted the same immunities as their colleagues in the judiciary.

Judicial applications

417. The Supreme Constitutional Court has delivered several rulings emphasizing that every person is entitled to a fair hearing and has the right of litigation specified in articles 67 and 68 of the Constitution. The Court has firmly established several important constitutional principles in its opinions on the rulings which it has handed down in connection with these same principles, as described below:

(a) The right to a trial before a court of law, recognized in article 67 of the Constitution, includes the right to a fair trial, since the right to a fair trial is guaranteed under the same article of the Constitution in accordance with the Universal Declaration of Human Rights which is based on the prevailing standards in democratic States. These standards embody all of the principal safeguards which together guarantee the concept of justice by the contemporary standards in civilized nations and relate to the composition of the court and the procedural rules applied therein and thereto (ruling handed down in Case No. 5, judicial year 15, session of 20 May 1995);

(b) The right to engage in litigation stipulated under article 68 of the Constitution, means that every opposing party shall ultimately receive justice in the form of the requisite judicial compensation for the encroachment of the rights forming the subject of the litigation. The compensation must be such as to be consistent with the provisions of the Constitution, which does not apply in cases where it is determined by a party or institution lacking in impartiality and/or independence. These two elements are guarantees of the right to engage in litigation that are imposed by the Constitution and are deemed as placing limits on the discretionary power of the legislature in the regulation of rights. Consequently, every legal regulation restricting the right to litigation shall be deemed null and void (ruling handed down in Case No. 123, judicial year 19, session of 3 April 1999);

(c) The right to engage in litigation is ensured to all citizens and others in Egypt by virtue of the same guarantees that are necessary for the administration of justice, inasmuch as article 68 of the Constitution stipulates that the State has a duty to afford every individual nationals and foreigners alike, easy access to its courts and the protection prescribed for recognized rights, with due regard for fundamental guarantees of the effective administration of justice according to the standards applied in developed States (ruling handed down in Case No. 8, judicial year 8, session of 7 March 1992);

(d) The right of litigation consists of three components, the first requiring that every person seeking legal redress has easy access to the courts unfettered by financial or procedural difficulties. To this are added two further elements which are vital and indispensable for the assertion and enforcement of this right. The first refers to the impartiality and independence of

the judiciary, the immunity of its members and the objective principles underpinning its practical guarantees, whereby it must ensure every person the full and equal right to a fair trial according to contemporary criteria. The courts must be independent and legally constituted and must deliver their verdicts, within a reasonable period of time, in respect of a person's civil rights and obligations or the criminal charges brought against him. Litigants must be able to plead their case before the courts, subject their defence to examination and challenge the evidence submitted by opposing parties in keeping with the principle of equality of opportunity with due regard for the fact that the composition of the courts, the principles governing their regulation and the nature of the objective procedural rules applied therein and thereby all form intrinsic elements of the second component of the right of litigation. The final component entails an obligation on the part of the State to render justice to litigants in the form of judicial compensation claimed for the infringement of their rights. This compensation, which must be lawful and consistent with the terms of the Constitution, constitutes the final component of the right of litigation (Case No. 81, judicial year 19, session of 6 February 1999).

418. As these principles which the Supreme Constitutional Court has firmly established show, the provisions of Egyptian law and the Constitution are entirely consistent with the relevant provisions of the Covenant in this regard.

Paragraph 2: The presumption of innocence

419. This fundamental principle is laid down in article 67 of the Constitution, which stipulates that the accused is presumed innocent until proved guilty in a court of law.

420. The Egyptian legislature has abided by these constitutional provisions in establishing the conditions under which prisoners may be released on bail, the requirements for precautionary detention and the need to separate prisoners being held in precautionary detention from convicted prisoners as well as the requirement that preventive detention orders should be submitted to the judiciary on a regular basis in order to review their validity.

421. The Supreme Constitutional Court has heard a number of appeals relating to particular legislative provisions that have a bearing on this principle. Some of its rulings declaring certain of these provisions to be unconstitutional are outlined here below.

Judicial applications

422. The Court ruled that article 121 of the Customs Act No. 66 of 1963 was unconstitutional insofar as it presumed that a person is knowingly engaged in smuggling if he or she is unable to present documentation for the commercial goods in his or her possession proving that customs duty has been paid thereon, such failure being deemed to constitute legal evidence of criminal intent. This contravenes articles 41, 67, 69 and 165 of the Constitution (Constitutional Case No. 13, judicial year 12, session of 2 February 1992).

423. The Court ruled that article 18 of Act No. 10 of 1966, concerning the rationing and regulation of the distribution of food, was unconstitutional on the grounds that it stipulated a penalty applicable to an infraction for the infringement of article 2 thereof, in circumstances where good faith could be shown. This provision contravened articles 41, 67 and 69 of the

Constitution by creating a category of offence for accused persons acting in good faith without defining the nature of the fault or the components thereof. It also infringed the principle of the right to a fair trial, including the requirement of the presumption of innocence (Case No. 28, judicial year 17, session of 2 December 1995).

424. Article 15 of Act No. 68 of 1976, concerning control of precious minerals, has been ruled unconstitutional on the grounds that by stipulating that precious minerals and stones cannot be certified if the owner is unable to prove that they have entered the country legally and offer evidence as to the method of storage and disposal, the Act contravened articles 32, 34, 40, 67, 68, 86 and 165 of the Constitution and the principle of the presumption of innocence as well as the right to a defence and to own private property (Case No. 58, judicial year 18, session of 19 July 1997).

Paragraph 3: Guarantees in criminal proceedings

425. The guarantees set forth in article 14 (3) of the Covenant have been incorporated into the following articles of the Egyptian Constitution:

(a) The accused must be tried before a court of law in which his rights to defend himself is guaranteed. Every person accused of a felony must have a lawyer to defend him (art. 67);

(b) The right of defence is guaranteed and legal provision must be made to ensure that persons lacking financial means are able to resort to the courts in defence of their rights (art. 69);

(c) Criminal proceedings can be instituted only by order of a judicial authority, except where otherwise provided by law (art. 70).

426. The Court of Criminal Procedure lays down the conditions applying to special guarantees in criminal proceedings, as detailed below:

(a) When the accused person first appears for examination, the examining magistrate must verify his identity, inform him of the charges against him and record his statements at the session (art. 123);

(b) Summonses and arrest orders must contain the name and surname of the person concerned, his trade, places of residence, the charge against him, the date of the order, the signature of the issuer and an official seal. Orders shall be served on the accused person by a bailiff or public official and he shall be furnished with a copy thereof (arts. 126, 127 and 128);

(c) Anyone who is arrested or held in precautionary detention must be informed immediately of the reasons for his arrest or detention. He has the right to communicate with any person whom he wishes to notify of what has happened and is entitled to avail himself of the services of a lawyer. He must be informed of the charges against him without delay (art. 139);

(d) A suspect may not be interrogated or confronted with others in a criminal case unless the suspect's lawyer, if he has one, has been invited to be present. The lawyer must be permitted to acquaint himself with the facts of the case on the day preceding the interrogation and the accused must under no circumstances be separated from his legal counsel during the examination (arts. 124 and 125);

(e) A summons to appear before the court must be issued to the accused by a person with the requisite judicial authority (the examining magistrate, the Department of Public Prosecutions or the Civil Rights Prosecutor) one full day before the hearing, in the case of infractions, three days in the case of misdemeanours and eight days in the case of felonies, not counting travel time. The summons must mention the articles of the Act which concern the penalty in question and must be served on the accused in the manner specified in the Code. The Code stipulates the right of the opposing party to examine the prosecution documents as soon as the summons that has been served (arts. 232, 233, 234 and 274);

(f) The Act provides that persons accused of offences punishable by imprisonment must appear in person. In cases involving misdemeanours and infractions, they may appoint a representative to present their defence (art. 237);

(g) The Act also establishes that trials must be held in public, unless the court decides to hold them in camera in the interests of public order or morality. In all events, the verdict must be presented in open court (arts. 268 and 303);

(h) The accused person must attend the hearing unfettered by shackles or handcuffs. He may not be removed from the court during the hearing (art. 270) and cannot be forced to testify against himself;

(i) The court must question the accused person during the hearing and present the indictment against him. If he confesses, the verdict may take account of the fact of the confession. Otherwise, the court proceeds to hear the witnesses, beginning with questioning of the witnesses by the prosecution, then the accused person, and finally the defence. After the witnesses for the prosecution have been heard, it is the turn of the witnesses for the defence. They may be questioned by the accused person in the first instance, followed by the defence, the prosecution, and finally the victim (arts. 271 and 272);

(j) Any statement by the accused or witnesses which, according to the evidence before the court, has been made under coercion or threat is considered null and void. Ascendants and descendants of the accused, as well as relatives by blood and marriage to the second degree and his spouse, even after the dissolution of the marriage, may decline to testify against him (arts. 276 and 302);

(k) In cases involving felonies, the lawyer must appear with the accused. If the defendant has no lawyer, he must be assigned one. The lawyer must be questioned if he fails to turn up for the hearing (art. 375);

(l) The language of the courts is Arabic. The statements of any opposing parties or witnesses who are not familiar with that language are heard through a sworn interpreter after the latter has sworn an oath (article 19 of the Judicial Authority Act No. 46 of 1972).

Paragraph 4: Legal treatment of minors

427. In conformity with the Convention on the Rights of the Child and the earlier resolutions adopted by the General Assembly in connection with the outcomes of conferences on crime prevention, juveniles are afforded special treatment under Act No. 15 of 1974 and the Children's Act No. 12 of 1996. The latter Act stipulates the treatment to be afforded to minors under criminal law, the conditions prescribed therefor and the measures that may be taken in respect of juvenile offenders or persons at risk of delinquency. It provides for the establishment of two levels of juvenile court, presided over by three magistrates and two experts, one of whom must be a woman. Further details are provided in the commentary on article 24 of the Covenant in the second part of the present report.

Paragraph 5: The right of appeal

428. The Egyptian Code of Criminal Procedure makes provision for numerous methods of appeal against judicial decisions, as described below.

Appeals against judgements handed down in absentia

429. The accused has the right to challenge judgements handed down in absentia in cases involving misdemeanours and infractions. The period of appeal does not begin until after the judgement is delivered against the accused or from the date on which he receives notice thereof. The appeal may be made against judgements delivered either by the court of the first instance or the court of appeal (arts. 368 and 418).

The Court of Cassation

430. The accused and the Department of Public Prosecutions have the right to appeal to the Court of Cassation against verdicts delivered in cases involving misdemeanours and infractions (art. 42). An appeal must not be detrimental to the accused unless the Department of Public Prosecutions is the appellant party. The penalty may not be increased nor may a verdict of innocence be revoked without the unanimous approval of all the judges hearing the appeal (art. 417).

The right of review

431. The accused person and the Department of Public Prosecutions have the right to apply for a review of the judgement in the following circumstances: where a judgement in respect of the same case has been handed down against another person; where the judgement is based on false testimony or a falsified case document; where new evidence or documents come to light that were not known at the time of the trial.

432. The accused and the Department of Public Prosecutions are entitled to appeal against final judgements handed down by the Court of Cassation in respect of felonies. Act No. 57 of 1959 outlines the conditions and circumstances in which this may be done.

Paragraph 6: Compensation arising from the overturning of a court judgement on the basis of new evidence

433. The emergence of new evidence or documents that were unknown at the time of the trial, the existence of which demonstrates the innocence of the convicted person, is deemed sufficient grounds for a review of a final judgement according to the procedure outlined in the preceding paragraph. By law, any verdict of innocence that is handed down following a judicial review must be published, at the Government's expense, in the Official Gazette and in two newspapers of the interested party's choosing. Any compensation awarded to the other opposing party is revoked and any part thereof that has been disbursed must be returned.

434. The accused person may, in all circumstances, seek redress against those responsible for providing false or fabricated evidence and may claim any compensation to which he is entitled under the provisions of the law.

Paragraph 7: The inadmissibility of double jeopardy

435. According to article 454 of the Code of Criminal Procedure, a criminal action is terminated when the defendant has been acquitted or convicted under the terms of the final judgement which finds him innocent or guilty as charged. The action cannot be reheard except by the means of appeal stipulated in the Act.

436. This means that an accused person cannot be tried twice by a criminal court for the same offence, since he would be entitled to argue the inadmissibility of rehearing a case which has already been adjudicated. Such a plea is a principle of public law that would be automatically upheld by the court under the appropriate conditions.

Judicial applications

437. In this connection the Supreme Constitutional Court ruled that certain articles of the Suspicion Act No. 98 of 1948 were unconstitutional on the grounds that they stipulated a penalty for criminal suspicion which was based on the previous history of the accused person and thereby punished him twice for the same action in contravention of articles 41, 66 and 67 of the Constitution (Case No. 3, judicial year 10, session of 2 January 1993).

438. In regard to General Comment No. 12/13, concerning equality before the law, as Egypt has already explained in its comments on article 14 (1) of the Covenant, the right of litigation and the guarantees of the full enjoyment of that right are established in the rulings of the Supreme Constitutional Court pertaining to the conditions for and guarantees of a fair trial and easy access to the judicial authorities by all citizens and foreigners.

439. In section 4, part I of this report, Egypt provided information about the judicial authority, Egyptian judicial bodies and the immunities and independence which they enjoy.

Article 15

440. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.

441. Nothing in this article shall prejudice the trial and punishment of any persons for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

442. The principles enunciated in this article of the Covenant are taken up in the Egyptian Constitution in its articles 66 and 67, the first of which stipulates that there is no crime or punishment except as defined by law and that penalties can be inflicted only on the basis of a court judgement and solely for acts committed subsequent to the entry into force of the legislation pertaining thereto.

443. Article 67 further provides that the accused is presumed innocent until proved guilty at a judicial hearing in which his right to defend himself is guaranteed. Every person accused of a felony must have a lawyer to defend him.

444. The drafters of Egyptian penal law have incorporated these fundamental principles of criminal law into the Penal Code, article 5 of which stipulates that offences must be punished on the basis of the legislation in force at the time of their commission.

445. The same article enunciates the principle that if legislation that is more favourable to the accused is promulgated before final judgement has been handed down in a criminal case, it shall be applied instead of the previous legislation.

446. Article 127 of the Code makes it a criminal offence, for which the penalty is a term of imprisonment, to enforce a penalty against an accused person that is more severe or different from the penalty handed down in accordance with the law.

Judicial applications

447. The Supreme Constitutional Court ruled that article 2 of Decree Law No. 32 of 1963 was unconstitutional, because it gave retroactive effect to a disciplinary punishment for members of the armed forces (Appeal No. 22, judicial year 8, session of 4 January 1992).

448. The Court also ruled that article 5 of Act No. 98 of 1945, concerning vagrants and suspects, was unconstitutional, because it stipulated a penalty for an offence lacking in material substance that was based on the threat or suspicion of the commission of a crime. In addition, it had the effect of imposing two penalties for a single offence (judgement handed down in Case No. 3, judicial year 10, session of 2 March 1993).

449. It is worth recalling that these constitutional and legal principles and provisions have a direct bearing on the principle of the rule of law and that they continue to apply even in the event of the proclamation of a state of emergency or under other circumstances.

Article 16

450. Everyone shall have the right to recognition everywhere as a person before the law.

451. Article 40 of the Constitution embodies the fundamental principle that all citizens are equal before the law.

452. According to the Civil Code (Act No. 131 of 1948) legal personality begins at birth and ends at death (art. 29). Births must be registered in official records and every person must have a first name and a family name (arts. 30 and 38). Any person who has reach his majority, namely the age of 21, and who has not been committed to an institution, but enjoys his full mental powers is regarded as having full capacity to exercise his civil rights.

453. The law stipulates that no person may renounce his legal capacity or liberty of person, nor is it permissible to derogate from any of the principles relating thereto, since they form part of Egypt's public law, which parties cannot agree to contravene.

454. The law also designates the following persons as lacking in legal capacity: minors who have not yet reached the age of reason (7 years) and the insane. Minors aged between 7 and 21 years and persons who are simple or weak-minded are regarded as having diminished capacity.

455. These provisions apply to all men and women, even in time of public emergency. Egyptian law recognizes the right of the foetus to inherit from the legator if the latter dies prior to the delivery.

456. The law also lays down a number of special provisions pertaining to the legal capacity of minors aged between 18 and 21 to engage in trade and dispose of their earnings.

Article 17

457. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

458. Everyone has the right to the protection of the law against such interference or attacks.

Paragraph 1

459. The right of the individual to liberty and security of person and to personal inviolability is recognized under articles 40, 42, 44 and 45 of the Constitution and is protected by law.

460. According to article 41 of the Constitution, individual freedom is a natural and inviolable right. Except in cases of *flagrante delicto*, no one may be arrested, searched, detained or subjected to any restriction of freedom or movement unless, in the interest of an investigation or the maintenance of public security, such is required under the terms of an order issued by the competent judge or the Department of Public Prosecutions in accordance with the provisions of the law.

461. Any person who is arrested or imprisoned or whose freedom is restricted in any way must be treated in a manner conducive to the preservation of his human dignity. No physical or mental harm may be inflicted on him, nor may he be detained or imprisoned in places other than those prescribed by penal legislation.

462. Homes are inviolable and may not be entered or searched without a substantiated warrant issued by a magistrate in accordance with the provisions of the law (art. 44).

463. The private life of citizens is inviolable and protected by law. All means of communication are inviolable and their confidentiality is guaranteed. They may not be seized, inspected or censored without a substantiated order issued by a magistrate for a specific period of time in accordance with the provisions of the law (art. 45). Pursuant to these constitutional rules, the Egyptian Penal Code stipulates that it is a criminal offence to violate the privacy of a citizen or subject him to surveillance or eavesdropping in the manner described below.

464. Egyptian law stipulates that it is a criminal offence to defame another person by presenting allegations as if they were facts and thereby causing harm or sullying the good name of that person among the people of his country. This offence is punishable by imprisonment and/or a fine (articles 302 and 303 of the Penal Code).

465. Article 306 of the Penal Code stipulates that any person who levels an insult against another that in any way damages that other person's honour or reputation in public shall be liable to imprisonment and/or a fine.

466. Article 309 bis stipulates that it is a criminal offence punishable by imprisonment to violate the privacy of a citizen by means of eavesdropping, recordings or photographs. The penalty is increased if the offence is committed by a public official.

467. According to article 154 of the Code any government or postal official who conceals or fails to deliver mail or facilitates such acts by others is liable to a penalty of a term of imprisonment and a fine.

468. The Code of Criminal Procedure outlines the circumstances in which it is permissible to monitor correspondence and to listen to and record telephone conversations under the following provisions of its article 206:

(a) The Department of Public Prosecutions may seize correspondence, letters and telegrams and monitor and record telephone and wireless communications, if it will serve to

ascertain the facts in cases involving felonies or misdemeanours punishable by a term of more than three months' imprisonment. It may only take such action under the terms of a substantiated warrant issued by a criminal court judge for a renewable period of 30 days;

(b) The Department of Public Prosecutions may examine correspondence, documents and records that have been seized provided that, where possible, such is done in the presence of the accused person who owns them or the addressee.

469. The above-mentioned measures incorporate a series of legal guarantees that are necessary to safeguard the privacy of individuals insofar as these measures can only be taken for the purpose of discovering a crime and under the terms of a judicial order issued for a limited period of time.

Paragraph 2

470. Under Egyptian law, any person who suffers an unlawful invasion of his privacy is entitled to seek legal redress against those responsible therefor, inasmuch as this act is a legally designated offence in respect of which the victim is entitled to claim compensation before the criminal courts.

Judicial applications

471. The Supreme Constitutional Court ruled that the text of article 47 of the Code of Criminal Procedure was unconstitutional on the ground that it violated article 44 of the Constitution, under which homes can be entered and searched only on the basis of a substantiated court order (Constitutional Case No. 5, judicial year 4, hearing of 2 June 1984, published in the Official Gazette No. 24 of 1984 of 14 June 1984).

472. The Constitutional Court ruled that article 73 of the Council of State Act No. 47 of 1972 was unconstitutional on the ground that it violated articles 9, 12, 13, 14, 40, 41 and 45 of the Constitution by stipulating that no man who is married to a foreign woman may be appointed as a member of the Council of State (Constitutional Case No. 234, judicial year 167, session of 18 March 1995).

473. As these rulings show, the means of legal redress available in Egypt fully recognize the rights and freedoms set forth in the Covenant and the provisions of the Constitution corresponding thereto and the national judiciary takes every care to ensure that they are applied in a manner consistent with the prevailing practice in the international community and the texts of instruments concerned with human rights.

Article 18

474. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

475. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

476. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

477. The States parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Paragraphs 1 and 2

478. Every Egyptian Constitution has embodied the principle of freedom of belief and freedom of religious observance, which are established constitutional principles in every civilized country. This means that everyone has the right to adopt a religion or belief of his choice that satisfies his conscience and gives him comfort. It is not permissible for any authority to condemn him for the choice he makes based on his deepest feelings. This principle is enunciated in article 46 of the Constitution as follows: "The State guarantees freedom of belief and freedom of religious observance."

479. Article 160 of the Egyptian Penal Code designates the following acts, which encroach upon that freedom, as criminal acts:

(a) The use of violence or threats to disrupt or interrupt the religious observances or celebrations of any community;

(b) The destruction, damage or desecration of premises intended for the celebration of religious rites, or of emblems or other articles venerated by the members of a religious community or group of people;

(c) The violation or desecration of graves or cemeteries.

480. Article 161 designates the following acts as criminal offences:

(a) The printing or publication of a text that is revered by members of a religious community, whose rites are performed in public, in such a way as to deliberately distort and alter the meaning of the text of those scriptures;

(b) Mimicry of a religious celebration in a public place with the aim of ridiculing it or exposing it to public view.

481. These offences are punishable by deprivation of liberty and/or a fine, the penalty being increased to a term of imprisonment, if the offence is committed for the purposes of terrorism.

482. Consistent with the principle of religious freedom guaranteed under the Constitution and the Islamic Shariah, matters of the personal status of Egyptians are governed by special ordinances which apply to non-Muslims in accordance with their respective religious practices and are promulgated in accordance with Egyptian law. The Muslim community is governed by the provisions of the Islamic Shariah. Inheritance and testamentary arrangements are regulated by Act No. 25 of 1944, which stipulates that inheritance and testamentary law must be consistent with the law of the land. If the legator is a non-Muslim the heirs may agree that the inheritance should be transmitted in the manner prescribed by the religious practice of the deceased.

Paragraph 3

483. The aforementioned provisions of the Constitution and the Penal Code illustrate the respect and protection which is afforded to religions and their sacred books in Egypt and guaranteed by law to different religions and their adherents. They also constitute the general framework in which sacred religions are practised by their followers. Restrictions relating to matters of public safety, order, health and morals as well as the rights and freedoms of others are constraints which must be observed by all in their exercise of freedom of religious expression and freedom of belief. This principle was elucidated in a ruling of the Supreme Court, later replaced by the Supreme Constitutional Court, which stipulated that the freedom to have or to adopt any of the recognized sacred religions is limited by the condition that public order and morals in the country in which it is adopted must not be jeopardized thereby (Constitutional Case No. 7, judicial year 2, hearing of 1 March 1975).

484. The Islamic religion is regarded as the official religion of the State under the Constitution and Muslims represent the majority of the country. Religion does not constitute grounds for discrimination or a basis for the violation of the principle of equality before the law recognized in article 40 of the Constitution.

Paragraph 4

485. Mothers, fathers and legal guardians enjoy full freedom to ensure the religious and moral education of their children as an extension of their freedom to adhere to a religion. Religion is regarded as a fundamental component of basic education and is incorporated into academic curricula according to the religious affiliation of the students.

Article 19

486. Everyone shall have the right to hold opinions without interference.

487. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

488. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

Paragraphs 1 and 2

489. The Constitution makes provision for these freedoms in its articles 47, 48, 49 and 210, in the following terms:

(a) Freedom of opinion is guaranteed. Every person is entitled to express and disseminate his opinion orally, in writing, graphically or through any other medium of expression, within the limits of the law. Self-criticism and constructive criticism guarantee sound national development (art. 47);

(b) Freedom of the press and of printing, publishing and the information media is guaranteed (art. 48);

(c) The State ensures that its citizens enjoy freedom of scientific research and of literary, artistic and cultural creativity and provides the requisite facilities to encourage them to exercise this freedom (art. 49);

(d) Journalists have the right to obtain news and information in the manner prescribed by law. In the discharge of their duties, they are subject to no authority other than that of the law (art. 210).

490. These freedoms are governed by the following legislative acts:

(a) Act No. 20 of 1936, concerning publications;

(b) Act No. 354 of 1954, concerning protection of copyright;

(c) Act No. 430 of 1955, concerning censorship of literary works;

(d) Act No. 96 of 1996, concerning the press authority;

(e) Act No. 13 of 1979, concerning the Broadcasting and Television Corporation.

Paragraph 3

491. The above Acts regulate the exercise of freedoms and the necessary guarantees for the protection of literary and artistic work and the freedoms of others. They also stipulate the penalties for infringement of the authorial rights of others. The Penal Code guarantees that

people are protected against the use of publications for the purposes stipulated here above. Some of the restrictions which have been put in place by the Egyptian legislature in this connection are detailed here below.

492. Act No. 340 of 1955, concerning censorship of literary works, defines the restrictions by which such works are governed as consisting in the need to protect public order and morals as well as the higher interests of the State. Article 2 of the Executive Ordinance to the Act lays down guidelines for censoring literary works during the approval stage according to which the work must not contain or seek to present subject matter that is inconsistent with the religious, spiritual and moral values of society or with public morals or public order. Nor may a work be published if it presents extremist messages, ridicules sacred religions, depicts despicable acts or the use of narcotics in an approving manner or describes a crime in such a way as to arouse sympathy or incite others to emulate it.

493. The Publications Act provides that publications published abroad may be banned from entering or being distributed in the country under the terms of a decree issued by the Council of Ministers for the purpose of maintaining public order. The Act also provides that publications published in Egypt which contain material of a pornographic nature or that ridicule religions in such a way as to jeopardize public security may be banned.

494. These constraints and standards concerning the exercise of freedom of expression, freedom of thought and freedom of creativity are consistent with the provisions of paragraph 3 of this article and with international instruments concerned with the circulation of immoral publications. They also reflect a concern for the public health of citizens, for efforts to curb the spread of narcotic and illegal substances and to ensure respect for the rights, reputation and honour of others and for the protection of society against the spread of crime.

495. The decisions taken by the authority responsible for censorship of literary works and decisions banning the circulation of publications are administrative decisions which the party injured thereby is entitled to challenge before the administrative courts with a view to applying for the revocation of such decisions and for compensation for any damage arising therefrom, where such is found to exist.

Judicial applications

496. The Supreme Constitutional Court ruled that the first paragraph of article 38 of the Trade Union Act No. 35 of 1976 was unconstitutional on the ground that it violated articles 40, 47, 55, 56 and 62 of the Constitution concerning freedom of expression and assembly, the right to vote and to stand for election and the principle of equality before the law, by providing that no more than 20 per cent of all members of a trade-union executive could also be working members of a professional union (Appeal No. 6, judicial year 15, hearing of 15 April 1995, published in the Official Gazette No. 17 of 27 April 1995).

Article 20

497. Any propaganda for war shall be prohibited by law.

498. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Paragraph 1

499. Throughout its long history and by virtue of its geographical location at the junction of three continents, Egypt has been an active member of the international community and has been affected by events taking place in all parts of the world. It has also done its utmost to contribute to the consolidation of the values of truth and justice and to the advancement, development, freedom and self-determination of all peoples.

500. Egypt's time-honoured cultural and religious heritage and historical experience over the ages have constituted the powerful driving force behind its active endeavours in this field, as a natural result of which Egypt has been among the most active members of the international community diligently seeking to promote the principles of human rights and ensure that they are enjoyed by all peoples of the world. Accordingly, Egypt was one of the 50 States that drew up and ratified the Universal Declaration of Human Rights and it is also a party to all the international and regional instruments that have been promulgated in this domain.

501. The document proclaiming the promulgation of the Egyptian Constitution, which, according to Egyptian law, enjoys the same legal status as the articles of the Constitution, outlines the approach which Egypt must take towards its foreign policy in the following terms:

(a) "The Egyptian people, undertaking fully and unconditionally to exert every effort to achieve peace, based on justice, for our world,

(b) "Believing that the political and social progress of all peoples can be achieved only through the freedom and independent will of those people and that no civilization is worthy of its name unless it is free of all forms and types of exploitation,

(c) "Convinced that the national and international experiences of our nation are conducive to integration and even overall unity between the universal human struggle for political, economic, cultural and intellectual freedom and the battle against all the forces and remnants of backwardness, domination and exploitation,

(d) "Being aware that man's humanity and dignity are the guiding principles which have directed the course of mankind's tremendous progress towards its highest ideals ..."

502. In this way, the proclamation document defines the fundamental principles and goals which Egypt is committed to attaining in all its relations with other States and they also represent at the same time the rights of other peoples and the freedoms which ought to be enjoyed in order to guarantee their progress and development. These goals and principles of all peoples can be summarized as follows:

(a) Peace based on justice;

(b) Equality in respect of all rights and freedoms;

(c) Political and social progress for all peoples;

(d) The freedom to take decisions through the exercise of free will;

(e) The universal human struggle against all the forces of backwardness, domination and exploitation;

(f) The humanity, dignity and political, economic, cultural and intellectual liberation of man.

503. Egypt is fully committed, both at home and abroad, to these fundamental principles, particularly the call for peace based on justice. They guide it in defining its position and role in all international efforts by international and regional organizations to achieve peace and an end to war within the framework of international law and ensure respect for the rights and freedoms of peoples and the realization of the purposes and aims of the United Nations.

Paragraph 2

504. In accordance with the aforementioned constitutional provisions and those of the Covenant which is the subject of the present report and is regarded as a law of the country, a number of acts have been designated as criminal offences under Egyptian law, as described below.

The Penal Code No. 58 of 1937

505. The Egyptian Penal Code, as amended by Act No. 97 of 1992 on 18 July 1992, guarantees the full protection of all public rights and freedoms recognized under the Constitution, in the following manner:

(a) It is a criminal offence to establish, found, organize or manage an association, body, organization, group or band the purpose of which is to lobby in any way for the infringement of citizens' personal freedom or of other public rights and freedoms guaranteed in the Constitution and the law or to undermine national unity and social peace. The law prescribes a penalty of a term of imprisonment for members of such groups and imprisonment at short-term hard labour for the leaders there (art. 86 bis);

(b) The law stipulates that it is a criminal offence to belong to one of these groups or, being aware of their aims, to participate therein in any way. The penalty therefor is up to five years in prison (art. 86 bis);

(c) It is a criminal offence to promote such groups and their aims whether by word, in writing or by any other method, or to possess or acquire writings, publications or pamphlets promoting or encouraging their aims or the means used for the preparation therof. This offence is punishable by up to five years in prison (art. 86 bis);

(d) The penalty for the crimes mentioned in article 86 of the Act is increased, if the offence was committed using the methods of terrorism (art. 86 bis);

(e) Any member of a group mentioned in article 86 bis who uses terrorism to compel a person to join a group or prevent him from leaving it is liable to a penalty of life imprisonment at hard labour (art. 86 bis, para. (b)).

506. In addition to the above penalties, the Act empowers the courts to issue an injunction prohibiting or requiring a person to reside in a specified place for a maximum of five years (art. 88 bis, para. (d)).

507. It should also be noted that, pursuant to article 57 of the Constitution, the Code of Criminal Procedure No. 15 of 1950 contains two articles (arts. 15 and 259) stipulating that the aforementioned offences cannot be time-barred from prosecution under civil or criminal law.

The Political Parties Act No. 50 of 1977

508. Under article 22 of the Political Parties Act it is a criminal offence to establish, fund or organize an illegal political party, punishable by a term of imprisonment. The penalty is increased to imprisonment at hard labour, if the party in question seeks to undermine social harmony. It should be pointed out that one of the conditions for the formation of a political party is that its principles, programmes, activities and choice of members must preclude any form of discrimination based on gender, origin, religion or belief.

The Press Act No. 96 of 1996

509. In conformity with the provisions of the Covenant forming the subject of this report and with the other relevant instruments to which Egypt has acceded, the drafters of Egyptian penal law included provisions in the Press Act designating the promotion or dissemination of racist ideologies as a criminal offence. According to article 20 of the Act, the press must do nothing to encourage the propagation of racist ideologies which foster the disparagement of religions or expression of contempt therefor, challenge the beliefs of others or advocate discrimination against or hatred towards any section of society. These offences are punishable by a penalty of imprisonment and/or a fine (article 22 of the Act).

510. Since these acts are regarded as criminal offences, legally established non-governmental organizations and the representatives thereof are prohibited from committing these acts or from engaging in any activity associated therewith. Should they do so, both the person that has committed the offence and those responsible for the organization in question shall be liable to punishment. Act No. 32 of 1964, concerning private associations and foundations, applies these provisions in the following manner:

(a) Any association which is established in contravention of public order and public morals or for an unlawful purpose shall be dissolved (art. 2);

(b) The administrative authorities are entitled to prohibit the enforcement of any decision taken by an association in breach of the law or of public order or morals (art. 33).